

**Report on Zoning by Municipality  
in Westchester County, New York**

Subject to the Settlement

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## INTRODUCTION

This report of the Housing Consultants (the “Report”) consists of a series of reports for the municipalities covered by the Stipulation and Order of Settlement and Dismissal in *United States ex rel Anti-Discrimination Center of Metro New York, Inc. v. Westchester County, New York* (“Settlement”). Each report evaluates the municipality on the progress it has made in providing opportunities for affordable housing and whether that opportunity would meaningfully allow the Town to meet the most recent and best available estimate of its share of regional affordable housing need. Each of the 31 eligible municipalities is addressed separately, in alphabetical order. The Report provides a narrative discussion and a tabular fact sheet for each municipality. This introduction describes the organization and methodology used in the Report.

On March 21, 2013, each municipality was sent a draft copy of its report and was asked to comment on the findings and to correct or update information. See, e.g., Ex. A, Letter from James E. Johnson to Paul Rosenberg, Mayor of Rye Brook, dated March 21, 2013. Responses were due by April 18, 2013, though many municipalities were granted additional time to respond. This final Report incorporates corrections and additional information provided by the municipalities, where deemed appropriate.<sup>1</sup>

### Narrative Description

Each narrative description is organized in the same manner. Each begins with a brief overview, which provides an overall evaluation of the municipality’s zoning ordinance, zoning map and land use map. They were found either to: (1) provide a meaningful opportunity to develop a sufficient number of affordable housing units to meet most recent and best available estimate of the municipality’s share of regional affordable housing need; (2) provide the opportunity for some additional affordable housing development, but not enough to satisfy the municipality’s estimated share of the regional need for affordable housing; or (3) not provide a meaningful opportunity for new affordable housing development, and therefore, do not appear to consider regional need for affordable housing. After the overview, a series of factors are analyzed, in bulleted list format. They are as follows:

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<sup>1</sup> The following municipalities provided information that is reflected in the Report: Village of Ardsley; Town of Bedford; Village of Bronxville; Village of Buchanan; Town of Cortlandt; Village of Croton-on-Hudson; Village of Hastings-on-Hudson; Village of Irvington; Village of Larchmont; Town of Lewisboro; Town of Mamaroneck; Town of Mount Pleasant; Town of New Castle; Town of North Castle; Town of North Salem; Town of Ossining; Village of Pelham; Village of Pelham Manor; Village of Rye Brook; Village of Scarsdale; Town of Somers; Village of Tarrytown; Village of Tuckahoe. See Ex. H, Municipal Response Letters as of July 24, 2013.

The responses were voluntary and while great effort was needed to ensure accuracy, the Monitor did not have the authority to compel responses or request interviews or documents from any municipal official. This limitation may affect the nature of the findings and the weight of the evidence we were capable of describing.

### Model Zoning and County Benchmark

The first consideration is whether the municipality has adopted the provisions of the Westchester County Fair and Affordable Housing Model Ordinance or their close equivalent and incorporated them into its zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions. The model ordinance includes a definition of affordable housing, a mandate for affordable housing applicable throughout the municipality (i.e., for each residential development, at least one out of ten units will be affordable), incentives for affordable housing development, requirements regarding the appearance and integration of the affordable units relative to the market-rate units, floor area and occupancy standards, requirements for continued affordability, and requirements for an expedited review process.

The second criterion consists of the municipality's record regarding the 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") and the Westchester County Planning Department. The HOC, and its predecessor the Housing Implementation Commission, were created by the Westchester County Board of Legislators in an effort to develop and implement a response to a series of court decisions issued by the New York Court of Appeals, beginning with the Court's decision in *Berenson v. Town of New Castle*, 38 N.Y.2d 102 (1975). The Court stated that to avoid being determined exclusionary, each municipality's zoning code must provide for both its need for affordable multifamily housing, and its share of the regional need for such housing.

The Housing Allocation Plan, which estimates a benchmark allocation of affordable housing units for each municipality, is based on a regional needs assessment prepared by the Center for Urban Policy Research of Rutgers University ("CUPR"), which determined that 10,768 new units of affordable housing would need to be created to meet the regional need for affordable housing for the period between 2000 and 2015. Public hearings were held for both CUPR's methodology for the needs assessment and the HOC's methodology for the Housing Allocation Plan, and the Plan was adopted by the HOC in November of 2005.

Although the Plan's allocations are neither required by law nor by the Settlement, it is the most recent and best available evidence of regional housing need. Notably, the Plan is cited by the County in its discussion of regional housing need in its most recent Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. In fact, an earlier version of the Housing Allocation Plan was cited by the New York Supreme Court as evidence that the Town of Cortlandt's zoning regime did adequately provide for affordable housing development. See *Triglia v. Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*2, 7, 8 (N.Y. Sup. Ct. 1998). The allocation plan provides a useful order-of-magnitude indication of the

municipality's success in providing for its fair share of regional need for affordable housing.

The Report reflects the analysis set forth in the Housing Allocation Plan by stating the number of affordable units estimated as the municipality's fair share allocation of regional need, the number that have been built or approved between 2000 and November of 2012, based on a survey conducted by the Westchester Planning Department at the request of the Monitor, and the outstanding benchmark. By "built or approved," the Report means housing units that have been completed, started but not yet completed, or approved by the municipality as part of a development plan but not yet constructed.

### Zoning Ordinance

Each municipal report then addresses aspects of the municipality's zoning ordinance, stressing the types of housing that are allowed. The primary consideration is whether multifamily housing (defined generally in this Report as development containing three or more housing units) is allowed as-of-right, and in how many zoning districts. Two-family housing, mixed-use development (i.e., residences above stores) and accessory housing units are also addressed. Although the Report mentions where these housing types are allowed by special permit, the evaluation is concerned exclusively with housing types that are allowed as-of-right. Requirements for the granting of special permits or the mapping of floating zones entail the possibility of dilatory review processes, with uncertain outcomes.

### Restrictive Practices

These may include --

- Restrictions that limit or prohibit multifamily housing development;
- Limitations on the size of a development;
- Limitations directed at Section 8 or other affordable housing, including limitations on such developments in a municipality;
- Restrictions that directly or indirectly limit the number of bedrooms in a unit;
- Restrictions on lot size or other density requirements that encourage single-family housing or restrict multifamily housing;
- Limitations on townhouse development;
- Prohibitions against mixed-use development or accessory housing units; or
- Age restrictions.

### Incentives and Mandates

The narrative then addresses whether the municipality provides mandates and incentives for affordable housing. It discusses whether the mandates are provided for all new residential development in the municipality, or whether the mandates apply only in certain locations or for certain types of housing. It describes the nature of the mandate

(e.g., at least 10 percent of the housing units, at least 20 percent of the housing units or at least 15 percent of the density units). With regard to incentives, these may include density bonuses (such as additional housing units, density units or floor area ratio), relaxation of minimum lot area or unit size restrictions, relaxation of height or bulk regulations, relaxation of off-street parking requirements, waiver of fees or expedited review. As with mandates, incentives may apply generally or only in certain locations or for certain types of housing.

#### Zoning Map, Development Pattern and Development Potential

The narrative then reveals the number of areas in the municipality where zoning code permits multifamily housing development as-of-right. Using acreage figures provided by the County Planning Department, in response to the Monitor's information requests, for the municipality as a whole and for those that permit multifamily housing development as-of-right (determined through Geographic Information Systems, or "GIS"), the percentage of the municipality's land area zoned for as-of-right multifamily housing development is calculated. Similarly, also using GIS data provided by the County, the narrative reveals the percentages of the municipality's land area that are currently developed with multifamily and with two-family housing. The development potential within districts allowing multifamily housing as-of-right is also revealed, based on maps and calculations provided by the County Planning Department. This consists of the number and size of available development sites within those districts and the County's calculation of the number of housing units that the sites can accommodate. For this purpose, available sites are those consisting of open land that is not underwater, part of a park or nature preserve, or part of a transportation or utility right-of-way. Available land includes the two Westchester GIS land use categories "vacant" and "agricultural." To be considered a development site, a lot must meet the zoning district's minimum lot size requirements, but adjacent lots that can be combined to form a large enough site are also counted, whether or not they are currently under common ownership.

This section of the Report also notes any additional affordable housing units that have been proposed pursuant to the Settlement, but may not yet have been approved. The Report identifies the proposed developments, their status, and the number of affordable units. While a municipality's efforts to contribute toward the County's obligations under the Settlement are an important indication of municipal support for affordable housing, it is important to note that some of these developments were produced through zoning variances or special permits, and with significant political and financial support by the County. It is not certain that this level of concerted effort to develop affordable housing will be present, either at the municipal or county level, once the term of the Settlement expires. While these recent developments may bear on the findings, the Report itself is focused on the structural aspects of municipal zoning that would produce long-term opportunities for affordable housing.

Housing values and development costs are also considered. The average market-rate selling price of a condo unit in the municipality is compared with the average development cost per condo unit. The average price is determined by realtor association data, as provided by the County. Condominium rather than co-op prices are

used exclusively because new multifamily for-sale housing would be marketed as condos, whereas co-op prices represent the resale values of older developments or conversions, which are not predictive of selling prices in new developments. If sufficient data are not available for the municipality, the weighted average selling price for the other municipalities in the same region of the County was calculated and used, employing the County's definition of North, Central and South for what is meant as region. Average land value is calculated as a percentage of housing value. For this purpose the municipalities were divided into quartiles with regard to average sales price per unit. For the highest quartile, the land value per unit is calculated as 30 percent of the average sales price per unit; for the second quartile, the land value per unit is calculated as 25 percent of the average sales price per unit; for the third quartile, the land value per unit is calculated as 20 percent of the average sales price per unit; and for the lowest quartile, the land value per unit is calculated as 15 percent of the average sales price per unit. The per-unit site preparation and construction cost is an average figure for the County, provided by the County Planning Department, of \$375,000. The order-of-magnitude total development cost is the sum of the land value and the site preparation and construction cost per unit. Where housing values are well above development costs, multifamily housing development on the available sites would be lucrative, and with the right zoning incentives mixed-income development (including affordable units) can be expected, without the need for financial subsidies. Where housing values are below development costs, affordable housing development, even in mixed-income developments, would be limited even with zoning incentives, absent subsidies.

A final factor to be considered is racial composition. To comply with the Settlement, a racial analysis must be conducted at the census block level. Where 2000 census data show relatively high concentrations of black and Hispanic residents, as compared with the demographics of the municipality as a whole, in the areas where multifamily housing is permitted as-of-right, this may indicate a correlation between race and ethnicity, and multifamily housing. To the extent that opportunities for multifamily housing are limited in the municipality, this may provide evidence of exclusionary zoning. High concentrations of black and Hispanic residents in areas that are physically separated from other residential districts may also contribute to segregated living patterns within the municipality itself.

Since 2000 the combined Black and Hispanic population has risen substantially in certain of the lowest income municipalities with among the lowest housing prices, even in the absence of development of affordable housing units. See Housing Consultant Report on the Village of Buchanan at 4. This increase has outstripped increases in any of the wealthiest, highest priced municipalities. See Housing Consultant Report on the Village of Scarsdale at 5. Over time, it is possible that additional municipalities with relatively affordable market prices will experience similar demographic changes, even in the absence of affordable housing development. In municipalities in which housing prices do not exceed development costs, zoning alone would likely not spur the development of affordable housing without financial subsidies. On the other hand, in the highest price municipalities, in the absence of sufficient zoning mechanisms, the high cost of housing may continue to act as a barrier against racial and socioeconomic

integration. In those municipalities market forces are sufficient such that, with mandates and meaningful zoning incentives for affordable housing, and especially if more affordable housing types (apartment complexes, townhouses, mixed-use development, accessory units, cottage housing, and quadraplexes) are permitted in substantial portions of the municipality, affordable housing will be developed without the need for financial subsidies.

### Master Plan

The municipality's most recent master plan or comprehensive plan is briefly discussed with regard to recommendations for affordable housing. Of the 31 eligible municipalities 26 provided master plans or made them available online.

### Race, Ethnicity, and Socioeconomic Characteristics

This section of the narrative reports Census Bureau data regarding the municipality's Black and Hispanic populations as a percentage of the municipality's total population, the Black and Hispanic populations within districts zoned for multifamily housing (to determine whether the municipality's minority population is unduly concentrated in these areas), the municipality's median family income, and the percentage of the municipality's families earning no more than 80 percent of Westchester County's Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges. The last of these characteristics can only be estimated because the Census Bureau reports the number of families within certain ranges of income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999, and the 80 percent of AMI figure falls within one of these ranges. For racial and ethnic data, the narrative reports the change from the 2000 to the 2010 census. As of 2010 the Census Bureau stopped reporting income data as part of the decennial census, so for income data the narrative reports the change from the 2000 census to the 2007 to 2011 American Community Survey (ACS) 5-Year Estimates. Information is missing from some municipal reports because the ACS data is not available for all municipalities.

### Implications

The narrative concludes with a summary of the implications that the previously discussed factors will have for the municipality's ability to satisfy its affordable housing allocation.

### **Data Sheet**

Following the narrative discussion and evaluation, a tabular fact sheet is presented for the municipality, which is based primarily upon the information provided by the County Planning Department. See Ex. E, Letter from County Planning Department to James E. Johnson ("Methodology"), dated September 6, 2012. The format is as follows:

a. Total acreage of the Village. Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).



b. Total acreage in zoning districts where multifamily housing is permitted as-of-right. Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012).

c. Undeveloped area in these zoning districts. This consists of the area in lots that are vacant or agricultural land. The acreage is provided in total and by zoning district. Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012).

d. Undeveloped area not subject to wetlands, floodplain and steep slopes. The acreage is provided in total and by zoning district. Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012).

e. Order-of-magnitude area available for development. A build-out factor of 80 percent is applied to the acreage in subsection d to account for irregular site configuration, setbacks, building form restrictions, and the like. The acreage is provided in total and by zoning district.

f. Number of sites available for development. This is the number of undeveloped lots that are large enough, either individually or through assemblage of adjacent lots, to satisfy the district's minimum lot size requirements. The number is provided in total and by zoning district. The information is provided by the County Planning Department, along with maps showing the locations of the sites. See Ex. E.

g. Average size of sites. Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012).

h. Theoretical number of multifamily units that can be developed as-of-right. The number is provided in total and by zoning district. The calculation was made by the County Planning Department. Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012).

i. Average selling price for multifamily (condo) units. The average price is determined by realtor association data, as provided by the County Planning Department. If sufficient data is not available for the municipality, the weighted average selling price for the other municipalities in the same region of the County is calculated and used, employing the County's definition of North, Central and South for what is meant as region.

j. Order-of-magnitude value for land, per condo unit, which is calculated as a percentage of housing value. For this purpose the municipalities were divided into quartiles with regard to average sales price per unit. For the highest quartile, the land value per unit is calculated as 30 percent of the average sales price per unit; for the second quartile, the land value per unit is calculated as 25 percent of the average sales price per unit; for the third quartile, the land value per unit is calculated as 20 percent of the average sales price per unit; and for the lowest quartile, the land value per unit is calculated as 15 percent of the average sales price per unit.

k. Site preparation and construction cost, per housing unit. This is an average figure for the County, provided by the County Planning Department, of \$375,000.

l. Percent minority population in the municipality. This includes data from the 2000 and 2010 U.S. Census.

m. Percent minority population in the zoning districts permitting multifamily housing as-of-right and containing available development sites. This information is provided by the County Planning Department from 2000 and 2010 Census data.

n. Household income limit for units defined as affordable under the County's model zoning ordinance, which is 80% of the Area Median Income ("AMI") for Westchester as defined annually by the U.S. Department of Housing and Urban Development.

o. Number of families at or below 80% of AMI. This figure is estimated from data provided by the U.S. Census Bureau from the 2000 census and the 2007-2011 American Community Survey 5-Year Estimates and is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% of AMI figures fall within these ranges, the number of families can only be estimated.

p. Median family income. This information is provided by the U.S. Census Bureau from the 2000 census and the 2007-2011 American Community Survey 5-Year Estimates.

q. Number of affordable housing units estimated as the municipality's fair share of the regional need as estimated by the HOC's 2005 Allocation Plan benchmark. The County provided the benchmark allocation for the municipality, as well as the number of affordable housing units constructed or approved since 2000, according to a survey conducted by the County. The municipalities were also sent preliminary drafts of their findings and were provided with another opportunity to update the information provided by the County's survey. The difference is the number of units still needed to meet the benchmark.

## VILLAGE OF ARDSLEY

The Village of Ardsley's zoning ordinance provides some opportunities for additional affordable housing development, though seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> The opportunities for affordable housing are diminished, at least in part, by the limited acreage zoned for as-of-right multifamily housing development. Multifamily housing is allowed only in one zoning district mapped over less than six acres, and available sites in that district can accommodate only an estimated 19 housing units. Ex. E, Village of Ardsley Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). Other restrictive practices, such as prohibiting accessory housing units and limiting the number of bedrooms in townhouses, limit alternative sources of affordable housing as well. See, e.g., VILLAGE OF ARDSLEY CODE §§ 200-35.B; Ex. F, Village of Ardsley Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012).

The Village has, however, made progress in reforming its zoning code. It has adopted the provisions of the County model zoning ordinance for affordable housing. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; VILLAGE OF ARDSLEY CODE Ch. 200 Art. XIIA (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013). As a result, the Village's code now provides mandates for affordable housing in all residential developments of at least five units, and it provides density bonuses for affordable one- and two-family homes, but not for affordable multifamily housing. VILLAGE OF ARDSLEY CODE §§ 200-100.3, 200-100.7.

Expanding the areas zoned for as-of-right multifamily housing development and loosening restrictions on alternative sources of affordable housing, such as accessory apartments and townhouses, would further increase the Village's ability to meet regional need for affordable housing. The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") estimated the Village's share of regional affordable housing need at 100 affordable housing units. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). Nineteen affordable housing units have been built or approved in Ardsley since 2000, 17 of which will be built with the assistance of the County under the Settlement. *Id.* The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Village's success in providing for its fair share of regional need for affordable housing.

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

### **Model Zoning and County Benchmark**

- The Village has adopted the provisions of the model zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; VILLAGE OF ARDSLEY CODE Ch. 200 Art. XIIA; Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan estimated the Village's share of regional affordable housing need at 100 affordable housing units in Ardsley, but only 19 have been built or approved since 2000 (17 of them as part of the approved but not-yet-built Water Wheel site development). Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. H, Village of Ardsley Response Letter from George F. Calvi, Ardsley Village Manager, at 2, dated Apr. 2, 2013.

### **Zoning Ordinance**

- Multifamily housing is permitted as-of-right in one zoning district – the R-4 district, and one overlay district – the R-4A Workforce / Affordable Housing overlay district. Ex. F, Village of Ardsley Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF ARDSLEY CODE §§ 200-29.1.A(1), 200-29.2.A(1). The two are presently coterminous. VILLAGE OF ARDSLEY CODE § 200-29.2. Multifamily housing is allowed by special permit in other districts, but only in connection with the conversion of the former Ashford Avenue School to residential use, a project that has long since been completed. Ex. F, Village of Ardsley Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF ARDSLEY CODE §§ 200-22.H; Ex. H, Village of Ardsley Response Letter from George F. Calvi, Ardsley Village Manager, at 1, dated Apr. 2, 2013.
- The CCH district permits clustered single-family homes or townhouses. VILLAGE OF ARDSLEY CODE § 200-37.B.
- Residences above stores are permitted in one of the four commercial districts.<sup>2</sup> Ex. F, Village of Ardsley Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF ARDSLEY CODE § 200-65.B(8).
- Two-family homes are generally not permitted as-of-right, but two-family homes qualifying as affordable may be built in single-family home districts. See Ex. I, Village of Ardsley Zoning Analysis, at 3, Letter from Edward Burroughs to Vincent Hom ("Eighth Zoning Submission"), dated July 23, 2013.

### **Restrictive Practices**

- In the CCH (cluster development) district, the only apartment development allowed is for assisted living facilities. VILLAGE OF ARDSLEY CODE § 200-37.C. Only six units may be attached, semidetached or clustered. VILLAGE OF ARDSLEY CODE § 200-35.A. No more than 25 percent of the dwelling units may

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<sup>2</sup> The County Planning Department's February 29, 2012, analysis of zoning in the County's municipalities is silent on the issue of mixed-use development in Ardsley, but a review of the Village's zoning ordinance reveals that upper floor residential use is permitted in the B-1 district. Compare Ex. F, Village of Ardsley Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012), with VILLAGE OF ARDSLEY CODE § 200-65.B(8).

- contain more than two bedrooms, and no dwelling unit shall contain more than three bedrooms. VILLAGE OF ARDSLEY CODE § 200-35.B.
- Accessory apartments do not appear to be permitted in any district. Ex. F, Village of Ardsley Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF ARDSLEY CODE Ch. 200.

### **Incentives and Mandates**

- In all districts, in all residential developments of ten or more units, at least 10 percent of the units must be affordable. VILLAGE OF ARDSLEY CODE § 200-100.3.A. In residential developments of five to nine units, at least one unit must be affordable. VILLAGE OF ARDSLEY CODE § 200-100.3.B. The definition of *affordable* is consistent with that in the model ordinance. *Compare* VILLAGE OF ARDSLEY CODE § 200-100.1, *with* Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions.
- The R-4A overlay district mandates that 20 percent of units must be workforce housing, and another 20 percent of units must be affordable housing. VILLAGE OF ARDSLEY CODE § 200-29.2.A(1)(a)-(b). “Workforce housing” is for emergency service, public service, and “quality of life occupations” workers; and their incomes must not exceed 120 percent of the median household income for Westchester County. VILLAGE OF ARDSLEY CODE § 200-2.
- The otherwise applicable minimum lot area requirement for a single-family home is reduced by 25 percent for an affordable housing unit. VILLAGE OF ARDSLEY CODE § 200-100.7. Although two-family homes are not otherwise permitted in single-family zoning districts, an affordable two-family home may be located on a lot that meets the otherwise applicable minimum lot area requirement for a single-family home. *Id.*
- In the R-4A overlay district, the Village may waive fees or provide assistance in obtaining additional local, state or federal funds for a multifamily development that includes 20 percent or more of workforce and/or affordable housing units. VILLAGE OF ARDSLEY CODE § 200-29.2.D.
- There are no other incentives for affordable multifamily housing. See VILLAGE OF ARDSLEY CODE Ch. 200.

### **Zoning Map, Development Pattern and Development Potential**

- Only 1.0 percent of the land area currently in residential use is occupied by multifamily housing (defined for this purpose as apartments, townhouses and quadrplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. An additional 1.5 percent is occupied by two- and three-family housing. *Id.*
- There is only one R-4 district / R-4A overlay district permitting multifamily housing as-of-right, covering less than six acres and less than one percent of the Village’s land area. Ex. E, Village of Ardsley Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012). The district is largely undeveloped. *Id.* at Methodology II-B Table August 2012 (submitted Sep. 6, 2012). It contains five available sites, three of which are contiguous, totaling less than five acres, of which closer to three acres is unconstrained and assumed developable. *Id.* at Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012). The district could potentially produce as-of-right 19 multifamily units on the four undeveloped sites, at an

average density of seven units per acre (after excluding environmentally constrained land). *Id.* at Village of Ardsley Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012).

- At a value of roughly \$321,000 per apartment or condo unit, and an average cost of \$375,000 per unit for multifamily and condo development in the County, it appears that new affordable housing development may be limited even with less restrictive zoning, absent subsidies. *Id.* at Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012).

### **Master Plan**

- The current comprehensive plan was adopted in 1964, prepared by Raymond and May Associates. *Comprehensive Master Plan of the Village of Ardsley*, New York, adopted March 5, 1964. The plan makes no mention of affordable housing. *See generally id.*
- The plan does acknowledge “the possibility that, in relatively isolated areas, some multifamily development might be appropriate.” *Id.* at 54-55. Multifamily development, if built, should be related to existing development, topography and traffic patterns. *Id.* at 55.
- A Business District study was also prepared in 1993. *See* Ex. I, Village of Ardsley Zoning Analysis, at 1, Eighth Zoning Submission, dated July 23, 2013.

### **Race, Ethnicity and Socioeconomic Characteristics**

- Ardsley’s Black population increased from 1.5 percent of the Village’s total population in 2000 to 2.4 percent in 2010, and the Hispanic population increased from 4.3 percent to 6.5 percent of the Village’s total population. Ex. K, Racial Composition Table, Village of Ardsley – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 6 percent of the Village’s population to 9 percent. *Id.*
- The Village of Ardsley’s status under section 7(a) of the Settlement has not changed.<sup>3</sup>
- In districts that allow multifamily housing as-of-right, the combined number of Black and Hispanic populations was insufficient in 2000.<sup>4</sup> *Id.* In 2010, the combined Black and Hispanic population was 9 percent. *Id.*
- The Village’s median family income rose from \$116,239 in 1999, as reported in the 2000 census, to \$155,298 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median

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<sup>3</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality’s eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

<sup>4</sup> If the total population in the district is 10 or less, the Census Bureau does not report racial breakdown.

family income increased from \$162,919 to \$168,426. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).

- The estimated percentage of the Village's families earning no more than 80 percent of Westchester County's Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – decreased from about 21.3 percent as of the 2000 census to about 20.2 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

### **Implications**

- The Village of Ardsley's zoning ordinance provides some opportunities for additional affordable housing development, though seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.
- The paucity of land zoned for multifamily housing substantially limits the major source of affordable housing.
- Accessory housing units, as an alternative source, are not permitted in the Village.
- Because of low housing values, subsidies, such as those available from the County under the Settlement, might be needed for new development.
- Seventeen of the 19 affordable units that have been created or approved within Ardsley will be in a new AFFH development developed pursuant to the County's obligations under the Settlement. The Village's openness to this type of development is promising, but unless similar financial and land-use incentives are created beyond the expiration of the Settlement's term, the opportunities for future affordable housing development will diminish.
- Affordable housing will likely remain rare unless the Village (in some combination) increases the area where multifamily housing is allowed, permits housing above stores in additional commercial districts, and allows accessory housing units.
- Even with additional Village actions, affordable housing will remain problematic without assistance from the County, in the form of financial subsidies and marketing assistance.

## ARDSLEY DATA SHEET

a. Total acreage of the Village (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	834 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	5.7 acres	0.7%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	4.3 acres	0.5%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes (Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))	3.4 acres	0.4%
e. Order-of-magnitude area available for development <sup>5</sup> (Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))	2.7 acres	0.3%
f. Number of sites available for development (See Ex. E, Village of Ardsley Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	5 sites	
g. Average size of sites (See Ex. E, Village of Ardsley Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0.54 acres	
h. Theoretical number of multifamily units that can be developed as-of-right (See Ex. E, Village of Ardsley Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	19 units	
i. Average selling price for multifamily (condo) units (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$321,000 <sup>6</sup>	
j. Order-of-magnitude value for land, per condo unit (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$64,000 <sup>7</sup>	
k. Order-of-magnitude total cost of development, per condo unit (Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	\$375,000 <sup>8</sup>	

<sup>5</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>6</sup> Data provided by the County was rounded to the nearest thousand.

<sup>7</sup> Data provided by the County was rounded to the nearest thousand.

<sup>8</sup> Since land costs in Ardsley are in the third quartile of the 31 eligible municipalities, total development costs in Ardsley are likely to be lower than the \$375,000 average.



l. Percent minority population		
2000 Census	(1.5% Black, 4.3% Hispanic)	6%
2010 Census	(2.4% Black, 6.5% Hispanic)	9%
(Ex. K, Racial Composition Table, Village of Ardsley – 2000 & 2010 Census Data (submitted Aug. 15, 2012))		
m. Percent minority population in the zoning district permitting multifamily housing as-of-right (R-4/R-4A)		
2000 Census		N/A <sup>9</sup>
2010 Census	(0.8% Black, 8.1% Hispanic)	9%
(Ex. K, Racial Composition Table, Village of Ardsley – 2000 & 2010 Census Data (submitted Aug. 15, 2012))		
n. Municipal status under the Settlement based on percent minority population <sup>10</sup>		
2000 Census		Section 7(a)
2010 Census		Section 7(a)
(Ex. K, Racial Composition Table, Village of Ardsley – 2000 & 2010 Census Data (submitted Aug. 15, 2012))		
o. Westchester County 80% area median income (AMI)		
2000		\$66,500
2010		\$83,800
(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)		
p. Number of families at or below 80% area median income (AMI) <sup>11</sup>		
2000	258	21.3%
2007-2011	237	20.2%
(Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates)		

<sup>9</sup> If the total population in the district is 10 or less, the Census Bureau does not report racial breakdown.

<sup>10</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point l of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point l of this data sheet are likely higher than they would be for the purposes of determining eligibility.

<sup>11</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

q. Median family income

2000	\$116,239
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2007-2011	\$155,298
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(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015	81 units
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Allocation Plan benchmark as of 2012

2015 Allocation	100 units
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Number of units created since 2000	19 units
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(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

## TOWN OF BEDFORD

The Town of Bedford's zoning ordinance provides some opportunities for the development of affordable housing, although seemingly not in numbers that would meaningfully allow the Town to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> The opportunities for affordable housing are diminished, at least in part, by the limited acreage mapped for as-of-right multifamily housing development. Multifamily and two-family housing are allowed in the majority of the Town's zoning districts. Ex. F, Town of Bedford Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use Regulations – Principal Uses, TOWN OF BEDFORD CODE § 125 Attachment 2, Oct. 1, 2010; TOWN OF BEDFORD CODE § 125-29.2, 125-56. However, they are mapped over only one percent of the Town's area, and most of the districts are fully built out, so there are few areas where multifamily development is actually feasible.<sup>2</sup> Ex. E, Town of Bedford Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). Accessory housing units, an alternative source of affordable housing, are also allowed, though not as-of-right. Ex. F, Town of Bedford Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use Regulations – Special Permit Uses, TOWN OF BEDFORD CODE § 125 Attachment 4, Sep. 1, 2009.

The Town has, however, made significant progress in reforming its zoning code. Bedford has adopted the provisions of the County model zoning ordinance for affordable housing, with a higher mandate for multifamily housing developments of 20 percent for affordable housing (instead of the 10 percent minimum specified by the County and applicable to single-family housing development in the Town). See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; TOWN OF BEDFORD CODE § 125-29.6 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).

Expanding the areas permitting as-of-right multifamily housing development and loosening restrictions on alternative sources of affordable housing, such as accessory apartments, would further increase the Town's ability to meet regional need for affordable housing. A total of 95 affordable housing units have been built or approved in Bedford since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). That is a considerable number, but it represents only about a quarter of the almost 400 units that the 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC"), estimated as the Town's fair share of regional affordable housing need. *Id.* The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

<sup>2</sup> The Town has indicated that due to its location within the watershed of the New York City water supply system, any higher density development would be difficult. Ex. H, Town of Bedford Response Letter from Lee V.A. Roberts, Town of Bedford Supervisor, at 1, dated Apr. 17, 2013.

County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Town's success in providing for its fair share of regional need for affordable housing.

#### **Model Zoning and County Benchmark**

- The Town has adopted the provisions of the County's model affordable housing zoning regulations, with a higher mandate of 20 percent for affordable housing in multifamily developments (instead of the 10 percent minimum specified by the County, which applies to single-family development in the Town). See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; TOWN OF BEDFORD CODE § 125-29.6; Ex.G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan estimated the Town's share of regional affordable housing need at close to 400 affordable housing units in Bedford, and close to 100 have been built or approved since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

#### **Zoning Ordinance**

- Multifamily housing is permitted as-of-right in 12 out of 18 total districts, representing most of the Town. Ex. F, Town of Bedford Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use Regulations – Principal Uses, TOWN OF BEDFORD CODE § 125 Attachment 2, Oct. 1, 2010; TOWN OF BEDFORD CODE § 125-29.2, 125-56.
- Multifamily housing is allowed as-of-right in three of eight commercial districts (NB, CB and RB), and there are no restrictions on residences above stores. Ex. F, Town of Bedford Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use Regulations – Principal Uses, TOWN OF BEDFORD CODE § 125 Attachment 2, Oct. 1, 2010.
- Multifamily and townhouse dwellings are allowed in six low-density zones (R-4A, R-2A, R-1A, R-1/2A, R-1/4A and TF) if approved as a conservation subdivision. Ex. F, Town of Bedford Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use Regulations – Principal Uses, TOWN OF BEDFORD CODE § 125 Attachment 2, Oct. 1, 2010; TOWN OF BEDFORD CODE § 125-52.
- Multifamily development is allowed as-of-right in three districts that are specifically designated for diverse housing types: the Residence Village Apartment (VA), Residence Multifamily (MF), and Diversified Housing (DH) districts. Ex. F, Town of Bedford Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use Regulations – Principal Uses, TOWN OF BEDFORD CODE § 125 Attachment 2, Oct. 1, 2010; TOWN OF BEDFORD CODE §§ 125-4, 125-29.2.A. One of these districts – the MF – is currently unmapped. Ex. E, Town of Bedford Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).
- Two-family dwellings are allowed as-of-right in all 12 districts mentioned above. Ex. F, Town of Bedford Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use

Regulations – Principal Uses, TOWN OF BEDFORD CODE § 125 Attachment 2, Oct. 1, 2010; TOWN OF BEDFORD CODE § 125-29.2, 125-56.

- Multifamily and two-family housing are also permitted by special permit in the Planned Business Office (Katonah) district and elsewhere by conversion in residences existing prior to September 1, 1985, on lots of less than 20,000 square feet (approximately one-half acre zoning).<sup>3</sup> Ex. F, Town of Bedford Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use Regulations – Special Permit Uses, TOWN OF BEDFORD CODE § 125 Attachment 4, Sep. 1, 2009.
- Accessory apartments are permitted by special permit in nine districts. Ex. F, Town of Bedford Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use Regulations – Special Permit Uses, TOWN OF BEDFORD CODE § 125 Attachment 4, Sep. 1, 2009.

### **Restrictive Practices**

- Accessory units are not allowed as-of-right. Ex. F, Town of Bedford Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use Regulations – Principal Uses, TOWN OF BEDFORD CODE § 125 Attachment 2, Oct. 1, 2010. By special permit they may only be in existing homes, not in accessory buildings. Ex. F, Town of Bedford Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use Regulations – Special Permit Uses, TOWN OF BEDFORD CODE § 125 Attachment 4, Sep. 1, 2009. The accessory apartment shall contain at least 400 square feet but not more than 800 square feet of gross floor area and shall not exceed 25 percent of the total floor area of the principal residence structure. TOWN OF BEDFORD CODE § 125-79.B(8). There can be no more than one accessory apartment per lot and no more than five residents per lot. TOWN OF BEDFORD CODE § 125-79.B(3)-(4).
- The MF district requires minimum lot sizes of two acres. Ex. F, Town of Bedford Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Table of Dimensional Requirements – Residential, TOWN OF BEDFORD CODE § 125 Attachment 5, Sep. 1, 2009.

### **Incentives and Mandates**

- At least 20 percent of any multifamily development in any multifamily residential zoning district must be affordable units. TOWN OF BEDFORD CODE § 125-29.6.D(2)(a).
- The Town also requires that within all residential developments of five or more units in single-family districts, at least 10 percent of all units must be affordable. TOWN OF BEDFORD CODE § 125-29.6.D(1)(a). Fee-in-lieu payments may be required for developments of less than five units. TOWN OF BEDFORD CODE § 125-29.6.D(1)(b).

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<sup>3</sup> The Town has indicated that despite the special permit requirement, no board may deny an application that meets the requirements listed for the use. Ex. H, Town of Bedford Response Letter from Lee V.A. Roberts, Town of Bedford Supervisor, at 1, dated Apr. 17, 2013. Although this may be true in Bedford and other municipalities in Westchester, further analysis of the applications for special permits would be necessary to verify the Town's assertion.

- In a development where at least 20 percent of residential units are affordable, the Planning Board may waive or reduce fees, provide local assistance or actively assist in procuring federal, state or other agency support for affordable housing. TOWN OF BEDFORD CODE § 125-29.6.D(1)(c).
- Likewise in these affordable or mixed-income developments, the Town allows a reduction of dimensional requirements of not more than 25 percent, and shared parking to reduce infrastructure costs. TOWN OF BEDFORD CODE § 125-29.6.D(1)(c)(4).

### **Zoning Map, Development Pattern and Development Potential**

- Although the majority of the Town's zoning districts allow multifamily housing as-of-right, these districts currently cover only one percent of the Town's land area. Ex. E, Town of Bedford Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).
- Except for the CB and VA districts, all of the mapped zoning districts that permit multifamily housing are fully built out, without available development sites. *Id.* at Town of Bedford Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012).
- There are only three buildable acres of undeveloped land zoned for as-of-right multifamily development, spread out among 11 sites, at an average of roughly 0.3 acres each, which could accommodate an estimated total of 45 housing units as-of-right. *Id.* at Town of Bedford Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-C Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012).
- The two mapped zones where multifamily housing is allowed as-of-right and sites are available already have a much greater proportion of minority residents than the Town as a whole, at 24 percent in the CB district and 22 percent in the VA district compared with 15 percent Town-wide as of 2000, and at 41 percent in the CB district and 22 percent in the VA district as of 2010 when the Townwide minority population was 18 percent. Ex. K, Racial Composition Table, Town of Bedford – 2000 & 2010 Census Data (submitted Aug. 15, 2012).
- Only 0.5 percent of the land area currently in residential use is occupied by multifamily housing (defined for this purpose as apartments, townhouses and quadrplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. An additional 0.8 percent is occupied by two- and three-family housing. *Id.*
- The Town is located within the watershed of the New York City water supply system, and is thus subject to the *Rules and Regulations for the Protection of the New York City Water Supply and Its Sources* (more commonly known as the *Watershed Rules and Regulations*). See *Priority Areas for New York City Land Acquisition & Stewardship Program* (1997), available at <http://www.ecolibary.org/page/DP4507>. This consideration places considerable constraints on the density and location of housing development in the Town.
- At a value of roughly \$275,000 per apartment or condo unit, and an average cost of \$375,000 per unit for multifamily and condo development in the County, it appears that further multifamily development in general (inclusive of redevelopment) may be difficult without financial subsidies. Ex. E, Methodology

III-A-2 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012).

### **Master Plan**

- The Town’s master plan of 2002 seeks to concentrate moderate- and high-density developments around existing Village centers, but recognizes that little undeveloped land remains. *Comprehensive Plan Bedford, New York*, at 3, 45, 49-50, July 2002. The Town also recognizes that many families who desire affordable housing have cars, and so affordable housing need not be limited to sites within walking distance of public transportation. *Id.* at 51.
- The master plan recommends maintaining the Town’s balance of 75 percent single-family and 25 percent two-family and multifamily homes. *Id.* Townhouse and garden apartment-type units are recommended to meet affordable housing needs, though the Town will also consider the creation of moderate-cost single-family homes. *Id.* at 50.

### **Race, Ethnicity and Socioeconomic Characteristics**

- Bedford’s Black population decreased from 7.1 percent of the Town’s total population in 2000 to 5.4 percent in 2010, and the Hispanic population increased from 7.6 percent to 12.1 percent of the Town’s total population. Ex. K, Racial Composition Table, Town of Bedford – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 15 percent of the Town’s population to 18 percent. *Id.*
- This increase adjusts Bedford’s status under section 7(a) of the Settlement to section 7(c).<sup>4</sup>
- In districts that allow multifamily housing as-of-right, the combined Black and Hispanic population rose from 14 percent in 2000 to 17 percent in 2010. *Id.*
- The Town’s median family income rose from \$118,820 in 1999, as reported in the 2000 census, to \$139,112 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income declined from \$166,536 to \$150,872. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Town’s families earning no more than 80 percent of Westchester County’s Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – increased from about 24.4 percent as of the 2000 census to about 31.2 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

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<sup>4</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality’s eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

## Implications

- The Town of Bedford's zoning ordinance provides some opportunities for the development of affordable housing, although seemingly not in numbers that would meaningfully allow the Town to meet the most recent and best available estimate of its share of regional affordable housing need.
- The Town's existing multifamily housing districts are largely built out, with only enough vacant land to accommodate about 45 new housing units.
- Town leaders have stated their intention to accommodate affordable housing by mapping multifamily housing districts in additional areas in response to developer requests.
- Because the estimated value per condo unit in the Town is below the average development cost per unit for multifamily and condo development in the County, multifamily housing development may be limited even with less restrictive zoning. Subsidies, such as those available from the County under the Settlement, may be needed to make even mixed-income development financially viable.
- In terms of creative solutions, the lower density options, such as quadraplexes, might be promising, as 99 percent of the Town's residential area is zoned for single-family housing on four-acre or larger lots. Accessory housing options, which are currently allowed by special permit but not as-of-right and are limited to locations within the existing residential building, also take advantage of the embedded investment in property, e.g., an individual property owner adding a unit to their house or detached garage, with no added cost for site preparation, site acquisition, etc.
- Additional actions will be needed for the Town's zoning code to provide viable opportunities for affordable housing. Considerable creativity will need to be employed with any strategy involving new housing development in Bedford, due to the constraints imposed by its location within the watershed of the New York City water supply system, compounded by soil and drainage conditions in some locations. Some solutions may emerge should the City of New York and State make or agree to infrastructure improvements to address septic and package plant failures in one or another area. In the absence of such action, solutions might involve the development of affordable housing in locations where sewage is not an issue, such as housing above stores in hamlet centers, or low-density development models, such as allowing two-family housing with one affordable unit instead of a similarly sized single-family home.



## **BEDFORD DATA SHEET**

a. Total acreage of the Town (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	25,444 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	221 acres	0.9%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	4.9 acres	0.02%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes	3.3 acres	0.01%
CB – Central Business	2.7 acres	
VA – Village Apartment	0.6 acres	
(Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))		
e. Order of magnitude area available for development <sup>5</sup>	2.7 acres	0.01%
CB – Central Business	2.2 acres	
VA – Village Apartment	0.5 acres	
(Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))		
f. Number of sites available for development (See Ex. E, Town of Bedford Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	11 sites	
g. Average size of sites (See Ex. E, Town of Bedford Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0.3 acres	
h. Theoretical number of multifamily units that can be developed as-of-right	45 units	
CB – Central Business	41 units	
VA – Village Apartment	4 units	
(See Ex. E, Town of Bedford Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))		
i. Average selling price for multifamily (condo) units (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$275,000 <sup>6</sup>	
j. Order of magnitude value for land, per condo unit (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$41,000 <sup>7</sup>	

<sup>5</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>6</sup> Data provided by the County was rounded to the nearest thousand.

<sup>7</sup> Data provided by the County was rounded to the nearest thousand.

k. Order of magnitude total cost of development, \$375,000<sup>8</sup>  
per condo unit  
(Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))

l. Percent minority population

2000 Census (7.1% Black, 7.6% Hispanic) 15%

2010 Census (5.4% Black, 12.1% Hispanic) 18%

(Ex. K, Racial Composition Table, Town of Bedford – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

m. Percent minority population in the zoning districts  
permitting multifamily housing as-of-right

2000 Census	(7.1% Black, 7.2% Hispanic)	14% <sup>9</sup>
R-4A	11.1% Black, 7.3% Hispanic	18%
R-2A	0.9% Black, 2.4% Hispanic	3%
R-1A	1.1% Black, 3.9% Hispanic	5%
R-1/2A	0.9% Black, 3.3% Hispanic	4%
R-1/4A	1.4% Black, 6.4% Hispanic	8%
TF	11.2% Black, 20.5% Hispanic	32%
CB	8.4% Black, 15.9% Hispanic	24%
VA	8.2% Black, 13.8% Hispanic	22%
DH	1.5% Black, 6.1% Hispanic	8%
NB <sup>10</sup>		N/A

2010 Census	(5.4% Black, 11.6% Hispanic)	17% <sup>11</sup>
R-4A	9.1% Black, 9.5% Hispanic	19%
R-2A	1.0% Black, 6.7% Hispanic	8%
R-1A	0.8% Black, 8.0% Hispanic	9%
R-1/2A	1.4% Black, 6.2% Hispanic	8%
R-1/4A	1.9% Black, 11.9% Hispanic	14%
TF	5.5% Black, 37.2% Hispanic	43%
CB	3.6% Black, 37.5% Hispanic	41%
VA	4.5% Black, 17.8% Hispanic	22%
DH	5.4% Black, 3.8% Hispanic	9%
NB	0.3% Black, 20.0% Hispanic	20%

(Ex. K, Racial Composition Table, Town of Bedford – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

<sup>8</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in Bedford are in the lowest quartile of the 31 eligible municipalities, total development costs in Bedford are likely to be lower than the \$375,000 average.

<sup>9</sup> Weighted average of the R-4A, R-2A, R-1A, R-1/2A, R-1/4A, TF, CB, VA and DH districts.

<sup>10</sup> If the total population in the district is 10 or less, the Census Bureau does not report racial breakdown.

<sup>11</sup> Weighted average of the R-4A, R-2A, R-1A, R-1/2A, R-1/4A, TF, CB, VA, DH and NB districts.

n. Municipal status under the Settlement based on percent minority population<sup>12</sup>  
 2000 Census Section 7(a)  
 2010 Census Section 7(c)  
 (Ex. K, Racial Composition Table, Town of Bedford – 2000 & 2010 Census Data  
 (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)  
 2000 \$66,500  
 2010 \$83,800  
 (Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban  
 Development)

p. Number of families at or below 80% area median income (AMI)<sup>13</sup>  
 2000 1,075 24.4%  
 2007-2011 1,319 31.2%  
 (*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic  
 Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income  
 2000 \$118,820  
 2007-2011 \$139,112  
 (*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic  
 Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark 301 units  
 2015 Allocation 396 units  
 Number of units created since 2000 95 units  
 (See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-  
 2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

<sup>12</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

<sup>13</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## VILLAGE OF BRIARCLIFF MANOR

The Village of Briarcliff Manor's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> As-of-right multifamily housing is allowed in three residential districts and in one other district as part of mixed-use development. VILLAGE OF BRIARCLIFF MANOR CODE § 22-3; Schedule Limiting the Use of Buildings and Land and the Location, Arrangement and Size of Buildings, VILLAGE OF BRIARCLIFF MANOR CODE § 220 Attachment 1; Schedule Limiting the Use of Buildings and Land and the Location, Arrangement and Size of Buildings, VILLAGE OF BRIARCLIFF MANOR CODE § 220 Attachment 3. According to the County's GIS analysis, however, these districts have no undeveloped sites. Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). In its residential districts other than the two allowing multifamily housing as-of-right, Briarcliff Manor only provides opportunities for new multifamily housing through the conversion of a house on a parcel of ten or more acres, and then only by special permit. VILLAGE OF BRIARCLIFF MANOR CODE § 220-6.J(9). In two of its commercial districts, Briarcliff Manor allows accessory housing subject to certain conditions. Schedule Limiting the Use of Buildings and Land and the Location, Arrangement and Size of Buildings, VILLAGE OF BRIARCLIFF MANOR CODE § 220 Attachment 3. Although the Village recognizes the importance of affordable housing by providing density bonuses for "moderate income dwelling units" in one townhouse zoning district, the Village does not provide mandates for affordable housing, such as mandatory set-asides for market-rate multifamily developments. VILLAGE OF BRIARCLIFF MANOR CODE § 220-10.B(1).

Further progress could be made by adopting the provisions of the County model zoning ordinance and loosening restrictions on multifamily housing and accessory apartments. The Village's zoning code also does not currently provide mandates for affordable housing or any incentives outside of one built-out district. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, VILLAGE OF BRIARCLIFF MANOR CODE Ch. 220 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). Although the County has indicated that Briarcliff has been considering the provisions of the County model zoning ordinance since at least December 31, 2011, it is unclear from the County's quarterly reports what progress has been made since that date. Ex. M, *Westchester County 2011 4Q Report*, at 17 (submitted Feb. 24, 2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).

The Village has nonetheless made progress towards satisfying its estimated share of the regional need for affordable housing, as identified under the 2005 Affordable Housing Allocation Plan developed by Westchester County's Housing Opportunities Commission ("HOC"). Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). The plan called for

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

approximately 140 affordable housing units in Briarcliff Manor, of which more than one-third have been built or approved. *Id.* The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2012 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Village's success in providing for its fair share of regional need for affordable housing.

### **Model Zoning and County Benchmark**

- The Village has not adopted the provisions of the County's model affordable housing zoning regulations. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, VILLAGE OF BRIARCLIFF MANOR CODE Ch. 220 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- According to Westchester County's 2013 First Quarter Report, the Village has placed the model ordinance provisions under consideration. Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan produced called for 141 affordable housing units in Briarcliff Manor, of which 49 have been built in the interim. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).
- According to the County's 2013 1Q Report, the Village has indicated that it intends to contribute towards the County's obligation under the Settlement to build at least 750 units. See Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013). A developer is seeking approvals for a proposed affordable housing development that would contain 14 affordable units. See *id.*

### **Zoning Ordinance**

- Multifamily housing is permitted as-of-right in two residential districts (R30M and EC), and in one other district (B1A) in connection with mixed-use development. VILLAGE OF BRIARCLIFF MANOR CODE § 22-3; Schedule Limiting the Use of Buildings and Land and the Location, Arrangement and Size of Buildings, VILLAGE OF BRIARCLIFF MANOR CODE § 220 Attachment 1; Schedule Limiting the Use of Buildings and Land and the Location, Arrangement and Size of Buildings, VILLAGE OF BRIARCLIFF MANOR CODE § 220 Attachment 3. In the mixed-use developments, the overall residential portion of the development must not exceed 80 percent of the gross floor area, and no ground floor dwelling units shall front on any public right-of-way. Schedule Limiting the Use of Buildings and Land and the Location, Arrangement and Size of Buildings, VILLAGE OF BRIARCLIFF MANOR CODE § 220 Attachment 3. These restrictions effectively protect the ground-floor commercial character of the district.
- Multifamily housing and two-family housing are allowed by special permit in all residential districts, but only for the conversion of an existing house on a parcel of ten or more acres, not for new developments. VILLAGE OF BRIARCLIFF MANOR CODE § 220-6.J(9).

### **Restrictive Practices**

- In most of the residential districts, multifamily housing and two-family housing are allowed by special permit only in connection with conversion of an existing house on a parcel of ten or more acres. *Id.*
- One of the two residential districts permitting multiple dwellings, the EC district, is a special district intended for elderly communities. VILLAGE OF BRIARCLIFF MANOR CODE § 220-11. It is not intended to accommodate general residential use. *Id.*
- Accessory housing is prohibited in the five commercial districts. Schedule Limiting the Use of Buildings and Land and the Location, Arrangement and Size of Buildings, VILLAGE OF BRIARCLIFF MANOR CODE § 220 Attachment 3.

### **Incentives and Mandates**

- The Village provides, in the Residential Townhouses (RT4B) district (which is presented in the zoning ordinance's use and bulk tables as a single-family home district), a 50 percent increase in the usually applicable maximum dwelling-units-per-acre density if at least 50 percent of the units are "moderate income dwelling units," which are not defined in the ordinance. Preferences are given, in descending order of priority, to employees of the Village or the school district, residents of the Village, members of the fire department, former residents who still own residential property in the Village, other persons employed in the Village, relatives of Village residents and other Westchester residents. VILLAGE OF BRIARCLIFF MANOR CODE § 220-10.B(1). That district is built out. See Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012).
- The Village does not otherwise appear to provide any mandates for affordable housing. Zoning, VILLAGE OF BRIARCLIFF MANOR CODE Ch. 220.

### **Zoning Map, Development Pattern and Development Potential**

- Only 4.6 percent of the Village's residential land area is currently occupied by multifamily housing (defined for this purpose as apartments, townhouses and quadrplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. Two- and three-family housing occupies another 0.3 percent. *Id.*
- The districts that permit multifamily housing as-of-right cover 2 percent of the Village's land area, but they appear to be effectively built out. Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). In its analysis, the County Department of Planning did not identify any available sites that meet the minimum lot requirements. *Id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012).
- A developer is seeking approvals for a proposed affordable housing project that would contain 14 affordable units, which could potentially contribute towards the County's obligation under the Settlement to build 750 units of affordable AFFH housing. See Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013).
- Housing values are sufficient to induce multifamily development and mixed-income housing if properly incentivized or mandated under the zoning code. See Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012). The Village has a successful precedent involving a 50 percent density bonus in connection

with the provision of affordable housing. VILLAGE OF BRIARCLIFF MANOR CODE § 220-10.B(1).

### **Master Plan**

- The Village’s master plan of 2007 calls for mixed use of varied residential types in commercial areas to accommodate the needs of senior citizens, start-up families, local employees, and singles. *Comprehensive Plan Village of Briarcliff Manor November 2007*, at 85, adopted Dec. 19, 2007.
- It also indicates that the Village should establish design guidelines regarding size, accessibility, and density, to ensure these desired housing needs are met at a scale that is compatible with the overall design of the neighborhood. *Id.*

### **Race, Ethnicity and Socioeconomic Information**

- Briarcliff Manor’s Black population increased from 1.7 percent of the Village’s total population in 2000 to 3.4 percent in 2010, and the Hispanic population increased from 3.1 percent to 5.7 percent of the Village’s total population. Ex. K, Racial Composition Table, Village of Briarcliff Manor – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 5 percent of the Village’s total population to 9 percent. *Id.*
- This increase adjusts the Village of Briarcliff Manor’s status under section 7(a) of the Settlement to section 7(b).<sup>2</sup>
- In districts that allow multifamily housing as-of-right, the combined number of Black and Hispanic populations increased from 4 percent in 2000 to 10 percent in 2010. *Id.*
- The Village’s median family income rose from \$157,607 in 1999, as reported in the 2000 census, to \$219,063 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income increased from \$220,900 to \$237,582. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Village’s families earning no more than 80 percent of Westchester County’s Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – increased from about 14.5 percent as of the 2000 census to about 15.2 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

### **Implications**

- The Village of Briarcliff Manor’s zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality’s eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.

- Given the spread between housing values and costs, zoning incentives should be sufficient to induce development (i.e., only under special circumstances would there be a need to employ financial subsidies such as those available from the County under the Settlement).
- In addition to lessening restrictions on multifamily housing development, allowing accessory units could be a means for creating new development of affordable housing, especially if allowed in accessory buildings (such as existing or “faux” garages).



## **BRIARCLIFF MANOR DATA SHEET**

a. Total acreage of the Village (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	3,808 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	48.7 acres	1.3%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	0.3 acres	0.01%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes (Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))	0.2 acres	0.01%
e. Order-of-magnitude area available for development (Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))	0.2 acres <sup>3</sup>	0.01%
f. Number of sites available for development	0 sites <sup>4</sup>	
g. Average size of sites (Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0 acres <sup>5</sup>	
h. Theoretical number of multifamily units that can be developed as-of-right (Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0 units <sup>6</sup>	
i. Average selling price for multifamily (condo) units (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$460,000 <sup>7</sup>	
j. Order-of-magnitude value for land, per condo unit <sup>8</sup> (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$115,000	

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<sup>3</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>4</sup> Available sites do not meet minimum lot requirements in Briarcliff Manor and have thus been excluded. Methodology II-C and II-D maps are also excluded from the County's submissions as a result.

<sup>5</sup> See *supra* n. 4.

<sup>6</sup> See *supra* n. 4.

<sup>7</sup> Data provided by the County was rounded to the nearest thousand.

<sup>8</sup> Data provided by the County was rounded to the nearest five thousand.

k. Order-of-magnitude total cost of development,  
per condo unit<sup>9</sup> \$375,000

(Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))

l. Percent minority population

2000 Census (1.7% Black, 3.1% Hispanic) 5%

2010 Census (3.4% Black, 5.7% Hispanic) 9%

(Ex. K, Racial Composition Table, Village of Briarcliff Manor – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

m. Percent minority population in the zoning districts  
where multifamily housing is permitted as-of-right

2000 Census (0.7% Black, 3.3% Hispanic) 4%<sup>10</sup>

R30M 0.9% Black, 3.3% Hispanic 4%

EC 0.5% Black, 3.2% Hispanic 4%

B1A 1.3% Black, 3.0% Hispanic 4%

2010 Census (1.1% Black, 5.5% Hispanic) 10%<sup>11</sup>

R30M 1.1% Black, 6.4% Hispanic 8%

EC 0.0% Black, 4.0% Hispanic 4%

B1A 1.1% Black, 3.5% Hispanic 5%

(Ex. K, Racial Composition Table, Village of Briarcliff Manor – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

n. Municipal status under the Settlement based on percent minority population<sup>12</sup>

2000 Census Section 7(a)

2010 Census Section 7(b)

(Ex. K, Racial Composition Table, Village of Briarcliff Manor – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

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<sup>9</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in Irvington are in the second quartile of the 31 eligible municipalities, total development costs in Briarcliff are likely to be higher than the \$375,000 average. The spread, however, between housing prices and development costs is still likely to be considerable.

<sup>10</sup> Weighted average of the R30M, EC and B1A districts.

<sup>11</sup> See *supra* n. 10.

<sup>12</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point l of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point l of this data sheet are likely higher than they would be for the purposes of determining eligibility.

o. Westchester County 80% area median income (AMI)

2000	\$66,500
2010	\$83,800

(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)

p. Number of families at or below 80% area median income (AMI)<sup>13</sup>

2000	290	14.5%
2007-2011	313	15.2%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income

2000	\$157,607
2007-2011	\$219,063

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015

92 units

Allocation Plan benchmark

2015 Allocation

141 units

Number of units created since 2000

49 units

(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

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<sup>13</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## VILLAGE OF BRONXVILLE

The Village of Bronxville's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> Although multifamily housing (generally defined in this report as developments containing three or more housing units) is permitted as-of-right in three of six residential zoning districts and one commercial district, these zones have no available land for development. See VILLAGE OF BRONXVILLE CODE §§ 310-4, 310-11.A(2), 310-12.A(1), 310-13.A(1), 310-18.A (2012); *Village of Bronxville Community Plan 2009*, at 24, adopted Mar. 9, 2009; Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). The Village also does not appear to provide incentives or mandates, such as mandatory set-asides in new multifamily development, to build affordable housing. See Zoning, VILLAGE OF BRONXVILLE CODE Ch. 310. New affordable housing development will remain unlikely unless the Village takes creative steps to incentivize redevelopment and alternatives to multifamily housing, such as accessory apartments.

To date, there is little or no evidence of the Village's efforts to reform its zoning code or otherwise develop affordable housing. Bronxville has not adopted the provisions of the County model zoning ordinance for affordable housing. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). Although the County has indicated that Buchanan has been considering the provisions of the County model zoning ordinance since at least December 31, 2011, it is unclear from the County's quarterly reports what progress has been made since that date. Ex. M, *Westchester County 2011 4Q Report*, at 18 (submitted Feb. 2, 2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). The Village has not reported the construction of any affordable housing units since 2000, and there is no indication that the Village has contributed, or made any proposals to contribute, to the County's obligation under the Settlement to build at least 750 units of affordable AFFH housing. Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013); Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

Due in part to the lack of incentives, mandates, and opportunities for affordable housing provided by the zoning code, the Village has been unable to make progress with respect to the most recent and best available estimate of its share of regional affordable housing need. The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") estimated Bronxville's fair share of regional need at approximately 100 affordable housing units in Bronxville. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Village's success in providing for its fair share of regional need for affordable housing.

### **Model Zoning and County Benchmark**

- The Village has not adopted the provisions of the model affordable housing zoning ordinance. Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, VILLAGE OF BRONXVILLE CODE Ch. 310; Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013)
- According to Westchester County's 2013 First Quarter Report, the Village has placed the Model Ordinance Provisions under consideration. Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan originally called for approximately 100 affordable housing units in Bronxville, of which none appear to have been built or approved for development. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013).

### **Zoning Ordinance**

- Multifamily housing (generally defined in this report as developments containing three or more housing units) is permitted as-of-right in three of six residential zoning districts and one commercial district. *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted July 23, 2013) and VILLAGE OF BRONXVILLE CODE §§ 310-4, 310-11.A(2), 310-12.A(1), 310-13.A(1), 310-18.A.<sup>2</sup>
- Housing is allowed above stores in the retail districts. VILLAGE OF BRONXVILLE CODE §§ 310-14.A(8)(a), 310-15.A(1).
- Two-family development is permitted as-of-right in the districts that allow multifamily housing. See Ex. I, Village of Bronxville Zoning Analysis, at 3, Eighth Zoning Submission, dated July 23, 2013.<sup>3</sup>

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<sup>2</sup> In its *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012), the County listed only three zoning districts (Residence B, Residence C and Residence D) as allowing multifamily housing as-of-right. In its more recent review, the County added two nonresidential districts, Business A and Business B. According to Village of Bronxville Code §§ 310-14.A(8)(a), 310-15.A(1), residences are permitted as-of-right above the ground floor in mixed-use buildings. Since there is no restriction on the number of such residential units, multifamily housing is permitted in these districts, although only as part of mixed-use development.

<sup>3</sup> The *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted July 23, 2013) states, on p. 3 of the Bronxville analysis, that two-family housing is permitted in the five districts that allow multifamily housing; however, two of those districts allow residences only above the ground floor in a mixed-use development, and thus exclude what is generally thought of as two-family homes.

### **Restrictive Practices**

- New accessory apartments are not listed as a permitted use as-of-right or by special permit in any district, although existing accessory apartments are grandfathered, permitted non-conforming uses. See Zoning, VILLAGE OF BRONXVILLE CODE Ch. 310 (2012); Ex. J, Table 1 Major Land Use Acreage and Percentages by Municipality, *Land Use in Westchester*, at 16, 2010; Ex. H, Village of Bronxville Response Letter from Mary C. Marvin, Mayor, at 2, dated Apr. 18, 2013.

### **Incentives and Mandates**

- There do not appear to be incentives or requirements, such as mandatory set-asides in new market-rate development, that would promote affordable housing within the municipality. See Zoning, VILLAGE OF BRONXVILLE CODE Ch. 310.

### **Zoning Map, Development Pattern and Development Potential**

- Approximately 8.7 percent of the Village's residential land area is occupied by multifamily housing (defined for this purpose as apartments, townhouses and quadraplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010; Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012). An additional 0.5 percent of the residential land area is occupied by two- and three-family housing. Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010; Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).
- According to the 2009 master plan, most of the Village is built-out. *Village of Bronxville Community Plan 2009*, at 24, adopted Mar. 9, 2009. The GIS analysis provided by the County also indicates that all zoning districts that permit multifamily development are built out. Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012). No development sites were identified. *Id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012).<sup>4</sup>
- Housing values are more than ample to induce multifamily development and mixed-income housing if properly incentivized or mandated under zoning. See *Id.* at Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012).

### **Master Plan**

- The Village's current master plan, dating to 2009, does not include recommendations to include affordable housing in future housing development – even though the plan does mention that the previous plan, dating to 2002, recommended exploring affordable housing opportunities in the Paxton Avenue area. *Village of Bronxville Community Plan 2009*, at 70-71, 74, adopted Mar. 9, 2009.
- The current master plan suggests four other areas for potential redevelopment. *Id.* at 74. However, the plan suggests that all four areas could be used at least in

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<sup>4</sup> The County examined available land and development potential only in three residential districts that allow multifamily housing as-of-right. In its more recent review of zoning in Bronxville (submitted July 23, 2013), the County noted that multifamily housing is also allowed as-of-right as part of mixed-use developments in two nonresidential districts, occupying an additional 35 acres.

part to alleviate parking concerns, without reference to affordable housing opportunities. *Id.*

### **Race, Ethnicity and Socioeconomic Characteristics**

- Bronxville's Black population increased from 1.1 percent of the Village's total population in 2000 to 1.4 percent in 2010, and the Hispanic population increased from 2.9 percent to 4.4 percent of the Village's population. Ex. K, Racial Composition Table, Village of Bronxville – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 4 percent of the Village's population to 6 percent. *Id.*
- Despite this increase, the Village of Bronxville's status under section 7(a) of the Settlement has not changed.<sup>5</sup>
- In districts that allow multifamily housing as-of-right, the combined number of Black and Hispanic population increased from 4 percent in 2000 to 6 percent in 2010. *Id.*
- The Village's median family income rose from \$200,001 in 1999, as reported in the 2000 census, to \$236,250 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. See *Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*. Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income declined from \$280,318 to \$256,222. See Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Village's families earning no more than 80 percent of Westchester County's Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – increased from about 11.6 percent as of the 2000 census to about 15.9 percent as of the 2007-2011 American Community Survey. See *Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*.

### **Implications**

- The Village of Bronxville's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.
- At the right densities, housing values are sufficient to induce multifamily development and mixed-income housing without incentives. The very high value of apartments and condo units in the Village should even be sufficient to promote 80/20 mixed-income housing, which would require less redevelopment than the 90/10 mixed-income development that represents the minimum affordable housing component under the County's model zoning ordinance, and which, unlike 90/10 development, would qualify for federal tax incentives.

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<sup>5</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

- If properly incentivized (e.g., with municipal bonds), any such development in downtown could be inclusive of amenities such as public parking – addressing one of the concerns raised in the master plan about downtown sites.
- Accessory units could be considered as a means to create new development of affordable housing, especially if allowed in accessory buildings (such as existing or “faux” garages), and especially if such units were listed on a Countywide registry of affordable housing.



## BRONXVILLE DATA SHEET

a. Total acreage of the Village (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	622 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right <sup>6</sup> (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	79.5 acres	12.8%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	0.03 acres	.01%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes (Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012) – Bronxville not listed)	0 acres <sup>7</sup>	0%
e. Order-of-magnitude area available for development (Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012) – Bronxville not listed)	0 acres <sup>8</sup>	0%
f. Number of sites available for development	0 sites	
g. Average size of sites (Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012) – Bronxville not listed)	0 acres	
h. Theoretical number of multifamily units that can be developed as-of-right (Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012) – Bronxville not listed)	0 units	
i. Average selling price for multifamily (condo) units (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$790,000 <sup>9</sup>	

<sup>6</sup> These figures are based on Methodology II-A Table August 2012 (submitted Sep. 6, 2012), which was developed according to the County's review of the Village's zoning and its conclusion that three districts (Residence B, Residence C and Residence D) permit multifamily housing as-of-right. The figures in c through h are also based on the County's examination of these three zoning districts. In its more recent review of Bronxville's zoning (submitted July 23, 2013), the County concluded, correctly, that two other districts, Business A and Business B, also permit multifamily housing as-of-right. The inclusion of these additional districts would increase the numbers in b to 114.7 acres and 18.4%. The County did not provide revised figures for c through h, however, which is why the older numbers are used in this Data Sheet.

<sup>7</sup> There are no zones that allow multifamily housing as-of-right in which there are undeveloped parcels that meet the minimum lot size standards for their zoning districts or those that are "under-sized" but are contiguous with "undeveloped" parcels that, as a group of contiguous "undeveloped" parcels, meet the minimum lot size standards. Since there are zero acres of undeveloped land in the Village, fact sheet points d through h are also zero or not applicable.

<sup>8</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>9</sup> Data provided by the County was rounded to the nearest thousand.

j. Order-of-magnitude value for land, per condo unit \$240,000<sup>10</sup>  
(Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))

k. Order-of-magnitude total cost of development, \$375,000<sup>11</sup>  
per condo unit  
(Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))

l. Percent minority population  
2000 Census (1.1% Black, 2.9% Hispanic) 4%  
  
2010 Census (1.4% Black, 4.4% Hispanic) 6%  
(Ex. K, Racial Composition Table, Village of Bronxville – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

m. Percent minority population in the zoning districts  
permitting multifamily housing as-of-right  
2000 Census (0.6% Black, 3.8% Hispanic) 4%<sup>12</sup>  
Residence B 0.4% Black, 3.6% Hispanic 4%  
Residence C 0.7% Black, 4.4% Hispanic 5%  
Residence D 0.9% Black, 3.7% Hispanic 5%  
Business A 0.4% Black, 2.9% Hispanic 3%  
Business B 0.7% Black, 3.9% Hispanic 5%  
  
2010 Census (0.8% Black, 5.2% Hispanic) 6%<sup>13</sup>  
Residence B 0.6% Black, 5.2% Hispanic 6%  
Residence C 1.0% Black, 6.0% Hispanic 7%  
Residence D 0.8% Black, 4.3% Hispanic 5%  
Business A 0.7% Black, 4.6% Hispanic 5%  
Business B 2.1% Black, 7.8% Hispanic 10%

(Ex. K, Racial Composition Table, Village of Bronxville – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

<sup>10</sup> Data provided by the County was rounded to the nearest five thousand.

<sup>11</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not adjust for variation in local land cost. Since land costs in Hastings-on-Hudson are in the highest quartile of the 31 eligible municipalities, total development costs in Hastings-on-Hudson are likely to be higher than the \$375,000 average. The spread, however, between housing prices and development costs is still likely to be considerable.

<sup>12</sup> Weighted average of the Residence B, Residence C, Residence D, Business A and Business B districts.

<sup>13</sup> See *supra* n. 12.

n. Municipal status under the Settlement based on percent minority population<sup>14</sup>  
 2000 Census Section 7(a)  
 2010 Census Section 7(a)  
 (Ex. K, Racial Composition Table, Village of Bronxville – 2000 & 2010 Census Data  
 (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)  
 2000 \$66,500  
 2010 \$83,800  
 (Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban  
 Development)

p. Number of families at or below 80% area median income (AMI)<sup>15</sup>  
 2000 192 11.6%  
 2007-2011 257 15.9%  
 (*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic  
 Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income  
 2000 \$200,001  
 2007-2011 \$236,250  
 (*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic  
 Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark 101 units  
 2015 Allocation 101 units  
 Number of units created since 2000 0 units  
 (See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-  
 2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

<sup>14</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

<sup>15</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## VILLAGE OF BUCHANAN

The Village of Buchanan's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> The limited opportunities are due, at least in part, to restrictive practices on multifamily housing present in the Village's zoning code. Restrictive practices not only restrict as-of-right development of multifamily housing, but, where such housing is allowed by special permit, restrict the density to five or fewer units per acre. Schedule of Use Regulations, VILLAGE OF BUCHANAN CODE § 211-10 Attachment 1; Ex. E, Methodology II-D(2) Table, August 2012 (submitted Sep. 6, 2012). Alternatives to multifamily housing as a source of affordable housing are also restricted: only one-bedroom accessory units are permitted and occupancy is limited to two persons, thus excluding families of three or more as potential residents. VILLAGE OF BUCHANAN CODE § 211-22.B-C. Affordable housing development, whether on undeveloped or developed sites, will remain rare without zoning reform. Even with such reform, development of multifamily housing will still prove problematic due to moderate values, unless significant financial incentives are provided.

To date, there is little or no evidence that the Village has taken steps to reform its zoning code or otherwise develop affordable housing, despite the fact that the Village's own master plan, adopted in 2005, makes several recommendations to increase opportunities for affordable housing, including a mandatory set-aside requirement and loosening zoning restrictions on density. *Village of Buchanan Comprehensive Master Plan – A Plan for Action*, at IIA-11, IIA-12, and IIC-3-6, adopted March 7, 2005. Buchanan has not adopted the provisions of the County model zoning ordinance for affordable housing. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions, August 9, 2010; Zoning, VILLAGE OF BUCHANAN CODE Ch. 211 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). Although the County has indicated that Buchanan has been considering the provisions of the County model zoning ordinance since at least December 31, 2011, it is unclear from the County's quarterly reports what progress has been made since that date. Ex. M, *Westchester County 2011 4Q Report*, at 18 (submitted Feb. 2, 2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). The Village has not reported the construction of any affordable housing units since 2000, though the County has reported that there is currently a proposal to rehabilitate one three-bedroom affordable housing unit, pursuant to the County's obligations under the Settlement. Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013).

Buchanan's zoning restrictions on as-of-right development of multifamily housing and alternatives for producing affordable housing may also inhibit its ability to meet regional need for affordable housing. The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") estimated

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

Buchanan's fair share of regional need at slightly more than 50 affordable housing units, yet there is no indication that any have been built since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Village's success in providing for its fair share of regional need for affordable housing.

### **Model Zoning and County Benchmark**

- The Village has not adopted the provisions of the County's model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions, August 9, 2010; Zoning, VILLAGE OF BUCHANAN CODE Ch. 211; Ex. G, *Westchester County 2013 1Q Report*, at 15-16 (submitted May 10, 2013).
- According to Westchester County's 2013 First Quarter Report, the Village has placed the Model Ordinance Provisions under consideration. Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan estimated the Village's share of regional affordable housing need at slightly more than 50 units, but there is no indication that any have been built since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).
- The County has reported that there is currently a proposal to rehabilitate one three-bedroom affordable housing unit, pursuant to the County's obligations under the Settlement. See Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013).

### **Zoning Ordinance**

- In two of the four commercial districts (the Neighborhood Commercial and General Commercial districts), multifamily dwelling units are permitted as-of-right but must be in back of or above a commercial establishment with a maximum of four dwellings per acre. Schedule of Use Regulations, VILLAGE OF BUCHANAN CODE § 211-10 Attachment 1. No more than 50 percent of the total floor area may be used for residential purposes. *Id.* Each dwelling must have a minimum of 750 square feet. *Id.*
- Multifamily or two-family dwellings (without a commercial use) are allowed by special permit in the two commercial districts noted above, provided that they are on parcels of land measuring not less than 40,000 square feet, that each dwelling unit contains a minimum of 750 square feet, that the maximum density is five dwelling units per 40,000 square feet, and that the parcel adjoins a residentially zoned district. *Id.*

### **Restrictive Practices**

- The only mention of affordable housing in the zoning code is the provision allowing accessory apartments in residential and commercial districts by special permit. VILLAGE OF BUCHANAN CODE § 211-22. Only one-bedroom units are

permitted, between 300 and 600 square feet in size and not to exceed 33 percent of the gross area of the building. VILLAGE OF BUCHANAN CODE § 211-22.C(2)(a)-(b). Occupancy is limited to two persons. VILLAGE OF BUCHANAN CODE § 211-22.B(2)(c). These size and occupancy requirements effectively exclude low- and moderate-income families of three or more persons.

- Multifamily housing is not permitted as-of-right in any residential district. Schedule of Use Regulations, VILLAGE OF BUCHANAN CODE § 211-10 Attachment 1.

### **Incentives and Mandates**

- The zoning code does not provide incentives or requirements for providing affordable housing units anywhere in the municipality, despite the fact that Buchanan's 2005 Master Plan recommends the consideration of affordable housing development incentives such as loosening setback and minimum height requirements. See Schedule of Use Regulations, VILLAGE OF BUCHANAN CODE § 211-10 Attachment 1; Ex. E, Methodology III-C-1 Table August 2012 (submitted Sep. 6, 2012); *Village of Buchanan Comprehensive Master Plan – A Plan for Action*, at IIC-3-6, adopted March 7, 2005.

### **Zoning Map, Development Pattern and Development Potential**

- Approximately 1.4 percent of the Village's total residential land area is currently occupied by multifamily housing (defined for this purpose as apartment, townhouse, or quadraplex development). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. An additional 10.8 percent of the total residential land area is occupied by two- and three-family housing. *Id.*
- Although no zoning district in Buchanan allows freestanding multifamily housing developments as-of-right, there are two districts in the Village that allow multifamily development as part of mixed-use developments as-of-right. Schedule of Use Regulations, VILLAGE OF BUCHANAN CODE § 211-10 Attachment 1. They represent 4.5 percent of the Village's area, but only one site (in the C-2 General Commercial District) is available for development. Ex. E, Village of Buchanan, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).
- Only seven multifamily units on one 4.5-acre site can be theoretically built as-of-right under the Village's zoning regime – though this site is well suited for multifamily development due to its location within a one-quarter mile walking distance of bus service, a post office, and some shopping. *Id.* at Village of Buchanan Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *Buchanan, NY*, Google Maps, *available at* <https://maps.google.com>.
- Because of the lack of multi-family development in the Village, only rough estimates of multi-family housing value and cost are available. At an average regional value of \$324,000 per condo unit, and an average development cost of \$375,000 per unit for multifamily and condo development in the County, further multifamily housing development may be limited even with less restrictive zoning. Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012). Subsidies, such as those available from the County under the Settlement, may be needed to make future development more financially viable.

## Master Plan

- The Village’s comprehensive master plan, adopted in 2005, recommends some set-aside requirements for new affordable housing consistent with some of the Model Ordinance Provisions, but primarily to provide opportunities for Buchanan’s existing seniors to remain in the community. The recommendation has not been implemented. *Village of Buchanan Comprehensive Master Plan – A Plan for Action*, at IIC-3-6, adopted March 7, 2005; Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions, at 2, August 9, 2010.
- With respect to apartments above or behind commercial uses, which at present are limited to no more than four dwelling units per acre, Schedule of Use Regulations, VILLAGE OF BUCHANAN CODE § 211-10 Attachment 1, the plan acknowledges this low development density and recommends the consideration of a minimum unit size requirement instead of the currently less economically viable requirement. *Village of Buchanan Comprehensive Master Plan – A Plan for Action*, at IIA-11, adopted March 7, 2005. This recommendation has not been implemented as of May 2013.
- The plan recognizes that the current restrictions on multifamily housing, which is now allowable by special permit and limited to lots of at least 40,000 square feet and to a maximum density of five units per 40,000 square feet in the C1 but not the C2 district, Schedule of Use Regulations, VILLAGE OF BUCHANAN CODE § 211-10 Attachment 1, effectively precludes multifamily development. *Village of Buchanan Comprehensive Master Plan – A Plan for Action*, at IIA-12, adopted March 7, 2005. While it recommends a review of such restrictions for possible amendment to provide more opportunities for townhouses and apartments, this recommendation has not been implemented as of May 2013. *Id.*

## Race, Ethnicity and Socioeconomic Characteristics

- Buchanan’s Black population increased from 0.7 percent of the Village’s total population in 2000 to 3.1 percent in 2010, and the Hispanic population increased from 3.5 percent to 16 percent of the Village’s total population. Ex. K, Racial Composition Table, Village of Buchanan – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 4 percent of the Village’s population to 19 percent. *Id.*
- Due to this increase, the Village of Buchanan’s status under section 7(a) of the Settlement has changed and the Village could be considered ineligible.<sup>2</sup>
- In districts that allow multifamily housing as-of-right, the combined number of Black and Hispanic population increased from 4 percent in 2000 to 24 percent in 2010. *Id.*
- The Village’s median family income rose from \$73,674 in 1999, as reported in the 2000 census, to \$93,333 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality’s eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income declined from \$103,260 to \$101,223. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).

- The estimated percentage of the Village's families earning no more than 80 percent of Westchester County's Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – decreased from about 44 percent as of the 2000 census to about 39 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

### **Implications**

- The Village of Buchanan's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.
- The magnitude of zoning restriction on the size, density, and location of multifamily housing serve as impediments to meeting regional goals for affordable housing development.
- Restrictions on the accessory housing ordinance limit the usefulness of this alternative. Even if unit size and occupancy restrictions were relaxed and accessory units were allowed as-of-right, the small house and lot sizes are not as conducive to this solution as in other lower-density northern Westchester communities. These factors also constrain the potential use of quadraplexes.
- Because the estimated value per condo unit in the Village is below the average development cost per unit for multifamily and condo development in the County, multifamily housing development may be limited even with less restrictive zoning. Subsidies, such as those available from the County under the Settlement, may be needed to make future development more financially viable.
- Affordable housing production will remain rare without creative solutions and subsidies, such as those available from the County under the Settlement, which is of limited duration. In addition to the zoning reforms provided in the County's model zoning ordinance, one policy recommendation that might improve the feasibility of affordable housing is to loosen restrictions on accessory, above-store, or cottage housing that can be developed in a manner akin to what is done by Habitat for Humanity.



## BUCHANAN DATA SHEET

a. Total acreage of the Village (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	932 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	42.3 acres	4.5%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	4.5 acres	0.5%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes (Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))	4.5 acres	0.5%
e. Order-of-magnitude area available for development (Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))	3.6 acres <sup>3</sup>	0.4%
f. Number of sites available for development (See Ex. E, Village of Buchanan Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	1 site	
g. Average size of sites (See Ex. E, Village of Buchanan Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	3.6 acres	
h. Theoretical number of multifamily units that can be developed as-of-right (See Ex. E, Village of Buchanan Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	7 units	
i. Average selling price for multifamily (condo) units (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$324,000 <sup>4</sup>	
j. Order-of-magnitude value for land, per condo unit (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$65,000	
k. Order-of-magnitude total cost of development, per condo unit (Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	\$375,000 <sup>5</sup>	

<sup>3</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>4</sup> Because data was not provided for the municipality, the weighted average selling price for the other municipalities in the same region of the County was calculated and used, employing the County's definition of North, Central and South for what is meant as region.

<sup>5</sup> This figure is a countywide average for affordable housing developments built under the Settlement, and does not adjust for variation in local land cost. Since land costs in Buchanan are estimated to be in the lowest quartile of the 31 eligible municipalities, total development costs in Buchanan are likely to be lower than the \$375,000 average.

I. Percent minority population

2000 Census	(0.7% Black, 3.5% Hispanic)	4%
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2010 Census	(3.1% Black, 16.0% Hispanic)	19%
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(Ex. K, Racial Composition Table, Village of Buchanan – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

m. Percent minority population in the zoning districts  
permitting multifamily housing as-of-right

2000 Census	(0.9% Black, 3.2% Hispanic)	4% <sup>6</sup>
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C1	(1.3% Black, 3.9% Hispanic)	5%
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C2	(0.2% Black, 2.2% Hispanic)	2%
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2010 Census	(4.3% Black, 19.5% Hispanic)	24% <sup>7</sup>
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C1	(4.1% Black, 19.0% Hispanic)	23%
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C2	(4.7% Black, 20.3% Hispanic)	25%
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(Ex. K, Racial Composition Table, Village of Buchanan – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

n. Municipal status under the Settlement based on percent minority population<sup>8</sup>

2000 census	Section 7(a)
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2010 census	Ineligible
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(Ex. K, Racial Composition Table, Village of Buchanan – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)

2000	\$66,500
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2010	\$83,800
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(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)

<sup>6</sup> Weighted average of the C1 and C2 districts.

<sup>7</sup> Weighted average of the C1 and C2 districts.

<sup>8</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

p. Number of families at or below 80% area median income (AMI) <sup>9</sup>		
2000	266	44.0%
2007-2011	259	39.4%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income	
2000	\$73,674
2007-2011	\$93,333

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark	56 units
2015 Allocation	56 units
Number of units created or approved since 2000	0 units

(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

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<sup>9</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## TOWN OF CORTLANDT

The Town of Cortlandt has made considerable progress in creating affordable housing and its zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Town to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> The Town has little available land that is both suitable for residential development and zoned for multifamily housing, and accessory housing units are not allowed as-of-right.<sup>2</sup> Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012). Multifamily housing and mixed-use buildings (residences above stores) are permitted as-of-right in one of the Town's 20 mapped zoning districts, accounting for less than one percent of the Town's total acreage. Loosening zoning restrictions on as-of-right multifamily development and other viable alternatives to creating affordable housing would provide greater opportunities for the Town to reach its share of the regional need for affordable housing.

The Cortlandt master plan indicates a commitment to future affordable housing development, though its recommendation for a 10 percent mandate does not appear to have been broadly implemented. Chapter 2: Land Use Plan – Residential Uses, *Town of Cortlandt Comprehensive Master Plan*, at 6 (last update July 9, 2004). Furthermore, the Town has not adopted other provisions of the model ordinance due to its submission that prior amendments to its zoning code deal effectively with the same topics included in the model provisions. Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, TOWN OF CORTLANDT CODE Ch. 230 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). The Town has adopted some of the provisions of the model zoning ordinance and has applied it in limited circumstances, but further amendments would be necessary to fully adopt the model ordinance provisions.

Approximately 200 affordable housing units have been built or approved in Cortlandt since 2000, 83 of which were built with the assistance of the County under the Settlement. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") called for approximately 400 affordable housing units in Cortlandt, twice the number of units that have been created. *Id.* The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

<sup>2</sup> The Town has indicated that much of the undeveloped vacant land within the Town is subject to the New York State wetlands ordinance and therefore cannot be used for further affordable housing development. Ex. H, Town of Cortlandt Response Letter from Thomas F. Wood, Town Attorney, at 1, dated Apr. 30, 2013. This assertion has not been independently verified.

been prepared to date. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Town's success in providing for its fair share of regional need for affordable housing.

### **Model Zoning and County Benchmark**

- The Town does not appear to have adopted the provisions of the model affordable housing zoning ordinance. Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, TOWN OF CORTLANDT CODE Ch. 230; Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). Although Cortlandt previously submitted to the County that it believed amendments to its zoning code made prior to the County's adoption of the model zoning ordinance sufficiently addressed the topics included in the model provisions, the zoning code does not appear to have addressed the full scope of the provisions. Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- The only mandates for affordable housing are for senior housing in a single zoning district and for all housing in a special district that has never been mapped. See TOWN OF CORTLANDT CODE §§ 307-94, 307-94.1; Ex. E, Town of Cortlandt, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).
- The HOC's 2005 Housing Allocation Plan called for approximately 400 affordable housing units in the Town. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). In the past twelve years, the Town has overseen the construction of approximately 200 affordable housing units, representing half of the benchmark – the highest number of affordable units and the third highest proportion of its obligation of the 31 municipalities subject to the Settlement. *Id.* One development (Roundtop at Montrose) was built pursuant to the County's obligation to build 750 units of AFFH affordable housing under the Settlement and provides 83 units of affordable housing. Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). Roughly 200 additional affordable housing units would need to be built to meet the HOC's estimate of the Town's fair share of regional affordable housing need. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

### **Zoning Ordinance**

- Multifamily housing and mixed-use buildings (residences above stores) are permitted as-of-right in one of the Town's 20 mapped zoning districts: the Highway Commercial / Multifamily (HC/9A). Table of Permitted Uses, TOWN OF CORTLANDT CODE § 307 Attachment 2, Aug. 1, 2010. That district restricts multifamily housing to three- and four-family dwellings and to a maximum of two bedrooms per unit. *Id.*; Notes for Table of Permitted Uses, TOWN OF CORTLANDT CODE § 307 Attachment 1, July 15, 2007.
- The unmapped Community Betterment District ("CBD"), a special zoning district, also permits multifamily housing as-of-right and includes the provision of affordable housing in its statement of purpose. TOWN OF CORTLANDT CODE § 307-94.A.

- Affordable senior housing is mandated in the special Existing Legal Non-Conforming Senior Citizen Developments (LN/SCD) district. TOWN OF CORTLANDT CODE § 307-94.1.
- Cluster developments are permitted with the stated intention of providing additional affordable housing options. TOWN OF CORTLANDT CODE § 307-19.
- Accessory units are allowed by special permit in nine districts, representing most of the Town. Table of Permitted Uses, TOWN OF CORTLANDT CODE § 307 Attachment 2, Aug. 1, 2010.
- A Residential Reuse Special Permit (RRSP) may be issued to rehabilitate housing or replace existing multifamily housing, whether they are new multifamily units or existing apartments, town homes, condominiums or even single-family homes (e.g., bungalows and non-conforming multifamily housing). TOWN OF CORTLANDT CODE § 307-94.2A. The RRSP is intended to preserve a mix of housing types by replacing old multifamily and selective single-family developments with new multifamily developments. *Id.*

### **Restrictive Practices**

- Some of the multifamily housing is only allowed at very low densities, less than three units per acre in one case, and up to ten bedrooms per acre in another case. TOWN OF CORTLANDT CODE § 307-94.D(1)(a).
- Accessory units are not permitted as-of-right, but rather require special permit approval. See TOWN OF CORTLANDT CODE § 307-45.
- Although accessory units are permitted by special permit in nine zoning districts (representing all but one multifamily district), in some districts a one-bedroom / two-occupant restriction forestalls the ability of families of three or more persons to be potential residents. See TOWN OF CORTLANDT CODE §§ 307-65.7(d), 307-45.

### **Incentives and Mandates**

- Although there do not appear to be incentives or mandates for affordable housing in the HC/9A district, Cortlandt does provide incentives and mandates in its special districts. TOWN OF CORTLANDT CODE Ch. 307; Table of Permitted Uses, TOWN OF CORTLANDT CODE § 307 Attachment 2, Aug. 1, 2010; Ex. E, Methodology III-C-1 Table August 2012 (submitted Sep. 6, 2012).
- In the CBD special zoning district, at least 10 percent of the final unit count must be affordable. TOWN OF CORTLANDT CODE § 307.94.B(2). If a higher percentage of affordable housing is provided, density may be increased by a substantial 66 percent (from 3 units / 6 bedrooms per acre to 5 units / 10 bedrooms per acre). TOWN OF CORTLANDT CODE § 307-94.D(1)(a).
- All senior housing units in an LN/SCD district must meet the Westchester County definition of affordability. TOWN OF CORTLANDT CODE § 307-94.1.E(8)(b).
- In connection with an RRSP, the new housing may be developed at a density of up to 20 percent greater than the existing development, and all new units above the existing number of units must be affordable. TOWN OF CORTLANDT CODE §§ 307.94.2.B(2), 307-94.2.B(3).

### **Zoning Map, Development Pattern and Development Potential**

- Multifamily housing (defined for this purpose as apartments, townhouses and quadraplexes) occupies 5.1 percent of the residential acreage; in addition, two-

and three-family housing occupies 3.0 percent of residential acreage. Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010.

- The HC/9A district, the only mapped district in which multifamily housing is allowed as-of-right, covers slightly less than one percent of the Town's area. Table of Permitted Uses, TOWN OF CORTLANDT CODE § 307 Attachment 2, Aug. 1, 2010; Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012). A substantial amount of land in the district is available for development, which could accommodate approximately 60 units. Ex. E, Methodology II-D-2 Table August 2012 (submitted Sep. 6, 2012). Development is, however, handicapped by the small size of the 11 potential sites (averaging between one and two acres each, and yielding an average of under four units per acre) and pre-existing industrial uses (which make housing less marketable and, assuming remediation is needed, more expensive). *Id.* at Town of Cortlandt, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). Furthermore, proximity of some of the sites to industrial use should be considered when determining whether a site is appropriate for affordable multifamily development.
- The CBD special zoning district has yet to be applied within the Town. *Id.* at Town of Cortlandt, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). Lots eligible for rezoning into CBD must contain at least 25 contiguous acres and must have at least 100 feet of frontage on a state highway, greatly restricting the number of sites that may qualify. TOWN OF CORTLANDT CODE § 307-94.B(1).
- A portion of the Town is located within the watershed of the New York City water supply system, and is thus subject to the *Rules and Regulations for the Protection of the New York City Water Supply and Its Sources* (more commonly known as the *Watershed Rules and Regulations*). See *Priority Areas for New York City Land Acquisition & Stewardship Program* (1997), available at <http://www.ecolibrary.org/page/DP4507>. This consideration places considerable constraints on the density and location of housing development in the Town.
- At a value estimated at \$350,000 per apartment or condo unit, and an average cost of \$375,000 per unit for multifamily and condo development in the County, it appears that further multifamily development with an affordable housing component would be difficult without zoning mandates and incentives, as well as without financial incentives or subsidies, such as that provided by the County in connection with the Settlement. Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012).

#### **Master Plan**

- The Town's comprehensive plan, which dates to 2004, recommends creating an affordable housing program and adopting inclusionary zoning regulations that require 10 percent of all new residential developments to be affordable units. Chapter 2: Land Use Plan – Residential Uses, *Town of Cortlandt Comprehensive Master Plan*, at 6-8 (last update July 9, 2004). This has been applied to the CBD special zoning district but not to HC/9A district where multifamily development is mapped as-of-right.

## Race, Ethnicity and Socioeconomic Characteristics

- Cortlandt's Black population remained largely the same with 5.5 percent of the Town's total population in 2000 and 5.4 percent in 2010. Ex. K, Racial Composition Table, Town of Cortlandt – 2000 & 2010 Census Data (submitted Aug 15, 2012). The Hispanic population increased from 7.5 percent in 2000 to 12.8 percent of the Town's total population in 2010. *Id.* The combined Black and Hispanic population increased from 13 percent to 18 percent. *Id.*
- Due to this increase, Cortlandt's status under section 7(b) of the Settlement has changed to section 7(c).<sup>3</sup>
- In districts that allow multifamily housing as-of-right, the combined number of Black and Hispanic population increased from 11 percent in 2000 to 27 percent in 2010. *Id.*
- The Town's median family income rose from \$88,588 in 1999, as reported in the 2000 census, to \$110,981 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. See *Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*. Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income declined from \$124,164 to \$120,363. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Town's families earning no more than 80 percent of Westchester County's Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – increased from about 34.4 percent as of the 2000 census to about 36.1 percent as of the 2007-2011 American Community Survey. See *Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*.

## Implications

- The Town of Cortlandt has made considerable progress in creating affordable housing and its zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Town to meet the most recent and best available estimate of its share of regional affordable housing need.
- Eighty-three (83) of the 201 affordable units that have been created within Cortlandt are in a new AFFH development developed pursuant to the County's obligations under the Settlement. The Town's openness to this type of development is promising, but at the current housing price levels in the Town, it appears that future affordable development would be difficult unless similar financial and land-use incentives are implemented.
- In terms of creative solutions, the lower density options, such as quadrplexes hold promise as 99 percent of the Town's residential area is zoned for single-family housing. Accessory housing options also take advantage of the

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<sup>3</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.



embedded investment in property (e.g., an individual property owner adding a unit to the house or detached garage, with no added cost for site preparation, site acquisition, etc.), especially if such units were listed on a Countywide registry of AFFH units.

- Additional actions will be needed for the Town's zoning code to provide viable opportunities for affordable housing. Considerable creativity will need to be employed with any strategy involving new housing development in Cortlandt, due to the constraints imposed by its location within the watershed of the New York City water supply system, compounded by soil and drainage conditions in some locations. Some solutions may emerge should the City of New York and State make or agree to infrastructure improvements to address septic and package plant failures in one or another area. In the absence of such action, solutions might involve the development of affordable housing in locations where sewage is not an issue, such as housing above stores in hamlet centers, or low-density development models, such as allowing two-family housing with one affordable unit instead of a similarly sized single-family home. Even if environmental conditions seem to forestall higher density affordable housing development for the time being, so that density bonuses are not currently feasible, a more extensive form of the model zoning ordinance could still be adopted, providing a more inclusive mandate to ensure an affordable housing component in any development (no matter what the density) of ten or more housing units and providing more incentives, such as waiver of fees and expedited review.

## CORTLANDT DATA SHEET

a. Total acreage of the Town (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	22,147 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	171.9 acres	0.8%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	24.7 acres	0.1%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes (Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))	19.6 acres	0.1%
e. Order-of-magnitude area available for development (Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))	15.7 acres <sup>4</sup>	0.1%
f. Number of sites available for development (See Ex. E, Town of Cortlandt, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	11 sites	
g. Average size of sites (See Ex. E, Town of Cortlandt, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	1.4 acres	
h. Theoretical number of multifamily units that can be developed as-of-right (See Ex. E, Town of Cortlandt, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	60 units	
i. Average selling price for multifamily (condo) units (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$350,000 <sup>5</sup>	
j. Order-of-magnitude value for land, per condo unit (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$70,000 <sup>6</sup>	
k. Order-of-magnitude value for land, per condo unit (Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	\$375,000 <sup>7</sup>	

<sup>4</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>5</sup> Data provided by the County was rounded to the nearest thousand.

<sup>6</sup> Data provided by the County was rounded to the nearest thousand.

<sup>7</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not adjust for variation in local land cost. Since land costs in Cortlandt are in the third quartile of the 31 eligible municipalities, total development costs in Cortlandt are likely to be lower than the \$375,000 average.

I. Percent minority population

2000 Census	(5.5% Black, 7.5% Hispanic)	13%
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2010 Census	(5.4% Black, 12.8% Hispanic)	18%
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(Ex. K, Racial Composition Table, Town of Cortlandt – 2000 & 2010 Census Data (submitted Aug 15, 2012))

m. Percent minority population in the zoning district permitting multifamily housing as-of-right (HC/9A)

2000 Census	(6.7% Black, 4.6% Hispanic)	11%
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2010 Census	(9.2% Black, 17.5% Hispanic)	27%
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(Ex. K, Racial Composition Table, Town of Cortlandt – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

n. Municipal status under the Settlement based on percent minority population<sup>8</sup>

2000 Census	Section 7(b)
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2010 Census	Section 7(c)
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(Ex. K, Racial Composition Table, Town of Cortlandt – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)

2000	\$66,500
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2010	\$83,800
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(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)

p. Number of families at or below 80% area median income (AMI)<sup>9</sup>

2000	2,587	34.4%
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2007-2011	2,859	36.1%
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(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

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<sup>8</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

<sup>9</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

q. Median family income<sup>10</sup>

2000	\$88,588
2007-2011	\$110,981

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015  
Allocation Plan benchmark

202 units

2015 Allocation	403 units
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Number of units created since 2000	201 units
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(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

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<sup>10</sup> Cortlandt contains part of Buchanan and Croton-on-Hudson, but these municipalities are excluded from Cortlandt's data calculations because they are discussed individually in a separate section of this report. However, the Census does not calculate median income for the subsection of Cortlandt that excludes Buchanan and Croton-on-Hudson. These data approximate the median incomes for the remainder of Cortlandt by taking the weighted average of the median income in the remaining areas. The median incomes for 2000 and 2007-2011 are derived by multiplying each subsection of Cortlandt's median income by its population, adding all of these figures together, and then dividing that sum by the total population in all of these subsections.

## VILLAGE OF CROTON-ON-HUDSON

The Village of Croton-on-Hudson's current zoning code does not appear to provide meaningful opportunities for the development of affordable housing to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> The limited opportunities are due, at least in part, to restrictive practices on multifamily housing present in the Village's zoning code. The Village's zoning ordinance permits multifamily housing and other typically affordable housing types, but the relatively few existing multifamily zoning districts are built out. Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012). Only 1.9 percent of the Village's acreage is zoned for as-of-right multifamily development and there are no undeveloped sites in those areas. *Id.* The Village has experimented with overlay zones that simplify development, though these may still be too restrictive. VILLAGE OF CROTON-ON-HUDSON CODE Ch. 23 Art. IVA, V.

To date, there is little or no evidence that the Village has taken steps to reform its zoning code or otherwise develop affordable housing. Croton-on-Hudson has not adopted the provisions of the County model zoning ordinance for affordable housing. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, VILLAGE OF CROTON-ON-HUDSON CODE Ch. 230 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). Although the County has indicated that the Village has been considering the provisions of the County model zoning ordinance since at least December 31, 2011, it is unclear from the County's quarterly reports what progress has been made since that date. Ex. M, *Westchester County 2011 4Q Report*, at 18 (submitted Feb. 2, 2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). Based on information provided by the County, there is no evidence that the Village has contributed, or developed plans to contribute, towards Westchester County's obligation to build at least 750 affordable housing units under the Settlement. See generally Ex. G, *Westchester County 2013 1Q Report* (submitted May 10, 2013).

Croton-on-Hudson's zoning restrictions on as-of-right development of multifamily housing may also inhibit its ability to meet its share of the most recent and best available estimate of regional need for affordable housing. The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") estimated the Village's fair share of regional need at 115 affordable housing units, yet only 17 units of affordable housing have been constructed or approved in the Village since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its most recent Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

allocation plan provides an order-of-magnitude indication of the Village's success in providing for its fair share of regional need for affordable housing.

### **Model Zoning and County Benchmark**

- The Village has not adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, VILLAGE OF CROTON-ON-HUDSON CODE Ch. 230; Ex. G, *Westchester County 2013 1Q Report*, at 15-16 (submitted May 10, 2013).
- According to Westchester County's 2013 First Quarter Report, the Village has placed the Model Ordinance Provisions under consideration. Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan originally called for 115 affordable housing units in Croton, of which 17 have been built or approved, a number falling well short of the Village's estimated fair share of regional housing need. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

### **Zoning Ordinance**

- Multifamily housing (generally defined in this report as developments including three or more housing units) is permitted as-of-right in two of 16 zoning districts, and by special permit in one of the three overlay districts. Schedule of Uses, VILLAGE OF CROTON-ON-HUDSON CODE § 230 Attachment B, April 1, 2005.
- The Multiple Development Use ("MDU") district is a special district intended to simplify the development of large tracts of ten or more contiguous acres. VILLAGE OF CROTON-ON-HUDSON CODE § 230-21.B. This district permits as-of-right multifamily housing if and only if such use is consistent with the allowed uses of the underlying districts prior to the special designation. VILLAGE OF CROTON-ON-HUDSON CODE § 230-21.D(1).
- The Harmon/South Riverside Gateway Overlay zone permits housing over stores as-of-right. VILLAGE OF CROTON-ON-HUDSON CODE § 230-20.3.A(1). Mixed-use development is also permitted in two commercial districts by special permit. VILLAGE OF CROTON-ON-HUDSON CODE §§ 230-16.B(5), 230-17.B(8).
- Two-family dwellings are permitted as-of-right in four zoning districts. VILLAGE OF CROTON-ON-HUDSON CODE §§ 230-13.B, 230-14.A(1), 230-15.A(1), 230-22.D(2)(b).
- Accessory apartments are permitted by special permit in all residential districts, except for the Waterfront Development District. VILLAGE OF CROTON-ON-HUDSON CODE § 230-41A; Schedule of Uses, VILLAGE OF CROTON-ON-HUDSON CODE § 230 Attachment B, April 1, 2005.

### **Restrictive Practices**

- The MDU only allows multifamily housing if the underlying district so permits. VILLAGE OF CROTON-ON-HUDSON CODE § 230-21.D(1). Development cannot exceed the density of the underlying district. VILLAGE OF CROTON-ON-HUDSON CODE § 230-21.E(2).
- Accessory apartments may only be in existing buildings. VILLAGE OF CROTON-ON-HUDSON CODE § 230-41.C. The owner or the lessee must be at least 55 years old. VILLAGE OF CROTON-ON-HUDSON CODE § 230-41.F. Only one accessory apartment is allowed per unit. VILLAGE OF CROTON-ON-HUDSON CODE

§ 230-41.G. Also, the accessory unit must be at least 400 square feet but not greater than the lesser of 750 square feet or 1/3 of the habitable floor area of the dwelling, effectively limiting them to one bedroom. VILLAGE OF CROTON-ON-HUDSON CODE § 230-41.K.

### **Incentives and Mandates**

- The Waterfront Development District (which appears to contain the only reference to affordable housing in the zoning code) permits an increase in density of 5 percent of the number of market-rate units if the additional units are affordable. VILLAGE OF CROTON-ON-HUDSON CODE § 230-22.I(1)(b); *see also* Ex. E, Methodology III-C-1 Table August 2012 (submitted Sep. 6, 2012). The code does not define affordability. *See* VILLAGE OF CROTON-ON-HUDSON CODE § 230-4.
- There are no mandates for affordable housing. *See* Zoning, VILLAGE OF CROTON-ON-HUDSON CODE Ch. 230.

### **Zoning Map, Development Pattern and Development Potential**

- Multifamily housing (defined for this purpose as apartment, townhouse, or quadraplex development) occupies 4.7 percent of the Village's residential land area; two- and three-family housing occupies another 3.5 percent. Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010; Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).
- The districts that allow multifamily housing as-of-right cover 1.9 percent of the Village's area. Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012). These districts are completely built out; there are no lots available for new development. *Id.* at Methodology II-B Table August 2012 (submitted Sep. 6, 2012).

### **Master Plan**

- The Village's comprehensive plan, which dates to 2003 (prepared by BFJ Planning), includes recommendations for exploring affordable housing opportunities, with a particular interest in affordable housing for seniors. *Village of Croton-on-Hudson 2003 Comprehensive Plan*, at 109-10, adopted Jan. 21, 2003.

### **Race, Ethnicity and Socioeconomic Characteristics**

- Croton-on-Hudson's Black population increased from 1.9 percent of the Village's total population in 2000 to 2.9 percent in 2010, and the Hispanic population increased from 6.9 percent to 11.4 percent of the Village's total population. Ex. K, Racial Composition Table, Village of Croton-on-Hudson – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 9 percent of the Village's population to 14 percent. *Id.*
- This increase adjusts the Village of Croton-on-Hudson's status under section 7(b) of the Settlement to section 7(c).<sup>2</sup>

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

- In districts that allow multifamily housing as-of-right, the combined Black and Hispanic population rose from 10 percent in 2000 to 17 percent in 2010. *Id.*
- The Village's median family income rose from \$100,182 in 1999, as reported in the 2000 census, to \$121,250 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income declined from \$140,414 to \$131,500. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Village's families earning no more than 80 percent of Westchester County's Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – increased from about 27.6 percent as of the 2000 census to about 28.3 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

### Implications

- The Village of Croton-on-Hudson's current zoning code does not appear to provide meaningful opportunities for the development of affordable housing to meet the most recent and best available estimate of its share of regional affordable housing need.
- The Village seems to focus on affordable housing opportunities for seniors. Accessory apartments appear to be exclusively targeted towards seniors, either living alone or with a partner. The master plan pays special attention to senior housing development. There is no other opportunity for accessory housing units.
- Although multifamily housing is permitted in certain districts, those districts are fully built out, with no available sites for new development.
- Thus, the current zoning regime provides insignificant opportunity to develop new affordable units.
- The MDU should be explored as an opportunity for redevelopment with multifamily affordable housing, which could be suitable for a large lot size but would not meet the density requirements of most of the Village's zoning districts.
- At the right densities, housing values are sufficient to induce multifamily development and mixed-income housing without incentives. The very high value of apartments and condo units in the Village might be sufficient to promote 80/20 mixed-income housing, which would require less redevelopment than the 90/10 mixed-income development that represents the minimum affordable housing component under the County's model zoning ordinance, and which, unlike 90/10 development, would qualify for federal tax incentives.
- Additional actions will be needed for the Village to make further progress towards meeting its share of regional affordable housing need. These might include, in some combination, adopting the model zoning ordinance and providing mandates and broader incentives for affordable housing, mapping additional areas where multifamily housing is permitted as-of-right, permitting accessory housing units as-of-right and for tenants other than seniors, and providing



opportunities for additional types of development (such as quadraplexes or cottage-style housing).

## CROTON-ON-HUDSON DATA SHEET

a. Total acreage of the Village (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	3,034 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	58.5 acres	1.9%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	0 acres <sup>3</sup>	0%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes (Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012) – Croton-on-Hudson not listed)	0 acres	0%
e. Order-of-magnitude area available for development (Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012) – Croton-on-Hudson not listed)	0 acres <sup>4</sup>	0%
f. Number of sites available for development	0 sites	
g. Average size of sites (Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012) – Croton-on-Hudson not listed)	N/A	
h. Theoretical number of multifamily units that can be developed as-of-right (Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012) – Croton-on-Hudson not listed)	0 units	
i. Average selling price for multifamily (condo) units (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$640,000 <sup>5</sup>	
j. Order-of-magnitude value for land, per condo unit (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$190,000 <sup>6</sup>	

<sup>3</sup> There are no zones that allow multifamily housing as a permitted use in which there are undeveloped parcels that meet the minimum lot size standards for their zoning districts or those that are “under-sized” but are contiguous with “undeveloped” parcels that, as a group of contiguous undeveloped parcels, meet the minimum lot size standards. Since there are zero acres of undeveloped land in the Village, fact sheet points d through h are also zero or not applicable.

<sup>4</sup> After applying a factor of 80 percent to account for site configuration, setbacks, building form restrictions, and the like.

<sup>5</sup> Data provided by the County was rounded to the nearest thousand.

<sup>6</sup> Data provided by the County was rounded to the nearest five thousand.

k. Order-of-magnitude total cost of development, \$375,000<sup>7</sup>  
per condo unit  
(Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))

l. Percent minority population  
2000 Census (1.9% Black, 6.9% Hispanic) 9%  
2010 Census (2.9% Black, 11.4% Hispanic) 14%  
(Ex. K, Racial Composition Table, Village of Croton-on-Hudson – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

m. Percent minority population in the zoning districts  
permitting multifamily housing as-of-right  
2000 Census (3.3% Black, 6.6% Hispanic) 10%<sup>8</sup>  
RC 3.6% Black, 6.5% Hispanic 10%  
WD 3.0% Black, 5.1% Hispanic 8%  
2010 Census (5.8% Black, 11.3% Hispanic) 17%<sup>9</sup>  
RC 6.1% Black, 13.1% Hispanic 19%  
WD 5.1% Black, 8.7% Hispanic 14%  
(Ex. K, Racial Composition Table, Village of Croton-on-Hudson – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

n. Municipal status under the Settlement based on percent minority population<sup>10</sup>  
2000 census Section 7(b)  
2010 census Section 7(c)  
(Ex. K, Racial Composition Table, Village of Croton-on-Hudson – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)  
2000 \$66,500  
2010 \$83,800  
(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)

<sup>7</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not adjust for variation in local land cost. Since land costs in Croton-on-Hudson are in the highest quartile of the 31 eligible municipalities, total development costs in Croton-on-Hudson are likely to be higher than the \$375,000 average. The spread, however, between housing prices and development costs is still likely to be considerable.

<sup>8</sup> Weighted average of the RC and WD districts.

<sup>9</sup> Weighted average of the RC and WD districts.

<sup>10</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point l of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point l of this data sheet are likely higher than they would be for the purposes of determining eligibility.

p. Number of families at or below 80% area median income (AMI) <sup>11</sup>		
2000	573	27.6%
2007-2011	646	28.3%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income	
2000	\$100,182
2007-2011	\$121,250

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark	98 units
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2015 Allocation	115 units
Number of units created or approved since 2000	17 units

(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

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<sup>11</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## VILLAGE OF DOBBS FERRY

The Village of Dobbs Ferry's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> The Village has few restrictions on multifamily development, which is widely permitted. Dobbs Ferry nevertheless appears to have made no progress in providing affordable housing. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). Due to the small size of available sites, averaging 0.1 acres, building multifamily affordable housing developments, nonetheless mixed-income developments, would be practically difficult under the existing zoning regime. See Ex. E, Village of Dobbs Ferry Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). Alternatives to multifamily housing, such as accessory housing, are also not permitted. VILLAGE OF DOBBS FERRY CODE § 300-39.

In addition to expanding the area zoned for as-of-right multifamily housing and allowing alternative sources of affordable housing, such as accessory apartments, Dobbs Ferry could still make further progress by adopting the provisions of the County's model zoning ordinance. To date, the Village has not adopted most provisions of the County model zoning ordinance for affordable housing, though the Village's zoning code does incorporate a mandate for including affordable housing within any residential development of ten or more units, and the Village has reportedly drafted proposed zoning changes that seek to incorporate other model ordinance provisions. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; VILLAGE OF DOBBS FERRY CODE § 300-40.A; Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013). The zoning code defines affordable housing in the same manner as the model ordinance and mandates that at least 10 percent of any new development of more than ten units be affordable. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, VILLAGE OF DOBBS FERRY CODE § 300-14, 300-40.

Despite providing for multifamily housing development in its zoning code, the Village does not appear to have made progress in meeting the most recent and best available estimate of its share of regional affordable housing need. The HOC's 2005 Affordable Housing Allocation Plan estimated the Village's share of regional affordable housing need at slightly more than 100 affordable housing units. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). Despite being given multiple opportunities to respond to a survey conducted by the County Planning Department, the Village has not reported the construction of any affordable housing units since 2000, though the County has reported that there is currently a proposal to construct 10 affordable housing units, pursuant to the County's obligations under the Settlement. *Id.*; Ex. G, *Westchester County 2013 1Q*

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

*Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013). The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Village's success in providing for its fair share of regional need for affordable housing. Adopting the provisions of the model zoning ordinance, expanding areas zoned for as-of-right multifamily housing, and allowing accessory apartments are some of the reforms that could increase the Village's ability to meet regional need for affordable housing.

### **Model Zoning and County Benchmark**

- The Village of Dobbs Ferry has not adopted the provisions of the model zoning ordinance, but it does require that at least 10 percent of all residential developments of more than ten units be “affordable,” as defined in the model ordinance, and regulates the administration of affordable units. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, VILLAGE OF DOBBS FERRY CODE § 300-40.A; Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).
- According to Westchester County's 2013 First Quarter Report, the Village has shared with the County Department of Planning draft zoning amendments that would incorporate the model ordinance provisions. Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan estimated the Village's share of regional affordable housing need at slightly more than 100 affordable housing units in Dobbs Ferry, but there is no indication that any affordable units have been built or approved since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).
- A developer is seeking approvals for a 202-unit mixed-income development at Rivertowns Square that would contain 10 affordable housing units. See Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013). If that development is approved and built, Dobbs Ferry will have provided 10 affordable housing units. Compare *id.*, with Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

### **Zoning Ordinance**

- The Village Code requires that at least 10 percent of all residential developments of more than ten units be affordable. VILLAGE OF DOBBS FERRY CODE § 300-40.A.
- Multifamily residences are permitted as-of-right in 13 of the Village's 24 zoning districts, mapped in areas distributed throughout the Village. Ex. F, Village of Dobbs Ferry Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Appendix A Permitted Use Tables, VILLAGE OF DOBBS FERRY CODE § 300 Attachment 1. Except in one district, the minimum lot size per unit ranges from a low of 800 square feet (in two

- zoning districts) to a high of 6,000 square feet, and the minimum lot area is 5,000 square feet. Ex. F, Village of Dobbs Ferry Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Appendix B: Dimensional Tables, VILLAGE OF DOBBS FERRY CODE § 300 Attachment 2. The exception is the DG district, which contains no maximum density regulations. Ex. F, Village of Dobbs Ferry Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Appendix B: Dimensional Tables, VILLAGE OF DOBBS FERRY CODE § 300 Attachment 2.
- Residences above stores are permitted as-of-right in six zoning districts, representing all of the non-residential districts except manufacturing. Ex. F, Village of Dobbs Ferry Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012).
  - Two-family dwellings are permitted as-of-right in 11 zoning districts; two additional districts permit two-family housing by special permit. *Id.*

### **Restrictive Practices**

- Accessory dwelling units are not permitted anywhere in the Village. *Id.* Section 300-39 of the Village Code explicitly states that accessory dwelling units are illegal in the Village. VILLAGE OF DOBBS FERRY CODE § 300-39.

### **Incentives and Mandates**

- The Village Code requires that at least 10 percent of all residential developments of more than ten units be affordable. VILLAGE OF DOBBS FERRY CODE § 300-40.A.
- No incentives, such as density bonuses, are provided for the development of affordable housing. *Id.*

### **Zoning Map, Development Pattern and Development Potential**

- Zoning districts allowing multifamily housing development are in 34 areas within the Village, covering 17 percent of the Village's area (an unusually high percentage for municipalities covered by the Settlement), but most of these areas are built out. Ex. E, Village of Dobbs Ferry, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-B Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).
- Multifamily housing (defined for this purpose as apartments, townhouses and quadrplexes) occupies 14 percent of the Village's residential land area. Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. Another 6.5 percent of the residential land area is occupied by two- and three-family development. *Id.*
- There are 56 available development sites where multifamily housing is permitted, encompassing a total of nine acres. Ex. E, Village of Dobbs Ferry, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-C Table August 2012 (submitted Sep. 6, 2012). The individual sites are generally quite small, however, averaging only 0.1 acres. *Id.* at Village of Dobbs Ferry, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). In total, the sites can accommodate up to 273 housing units, but mainly in small developments averaging five units each, to which the Village's affordable housing

mandate does not apply. *Id.* at Methodology III-D(2) Table August 2012 (submitted Sep. 6, 2012).

- On one large property not identified as a potential development site within the existing multifamily zones, a developer is seeking approvals for 202 housing units, 10 of which would be affordable rental units. Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013). It should be noted that the development, as proposed, would not satisfy the Village's mandate that at least 10 percent of the units in a development of this size be affordable. VILLAGE OF DOBBS FERRY CODE § 300-40.A.
- Some of the zoning districts that permit multifamily development already have relatively high percentages of Black and/or Hispanic residents. Ex. K, Racial Composition Table, Village of Dobbs Ferry – 2000 & 2010 Census Data (submitted Aug. 15, 2012). Approximately one-eighth (36 out of 273) of the estimated housing units that can be accommodated on available sites would be in the DB district, which as of the 2000 and 2010 censuses had populations that were 24 and 28 percent minority, respectively. *Id.*

### **Master Plan**

- The master plan calls for a 10 percent affordable housing mandate in connection with all residential development of four or more units. *Dobbs Ferry Vision Plan*, at 102, adopted Sept. 28, 2010. It also calls for a modest incentive, in which the unit count (but not the square footage) can be increased in connection with the provision of affordable housing. *Id.* at 102-03.
- The plan calls for reducing parking requirements for housing units above stores, removing one of the major impediments to this type of development. *Id.* at 75, 104.
- The plan also calls for allowing accessory housing units of sufficient size to accommodate families. *Id.* at 75.

### **Race, Ethnicity and Socioeconomic Characteristics**

- Dobbs Ferry's Black population remain largely the same with 7.4 percent of the Village's total population in 2000 and 7.2 percent in 2010, and the Hispanic population increased from 7 percent to 10.5 percent of the Village's total population. Ex. K, Racial Composition Table, Village of Dobbs Ferry – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 14 percent of the Village's population to 18 percent. *Id.*
- This increase adjusts the Village of Dobbs Ferry's status under section 7(b) of the Settlement to section 7(c).<sup>2</sup>
- In districts that allow multifamily housing as-of-right, the combined number of Black and Hispanic population increased from 14 percent in 2000 to 17 percent in 2010. *Id.*

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.



- The Village’s median family income rose from \$93,127 in 1999, as reported in the 2000 census, to \$136,357 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income increased from \$130,525 to \$147,884. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Village’s families earning no more than 80 percent of Westchester County’s Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – decreased from about 35.8 percent as of the 2000 census to about 27.9 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

### Implications

- The Village of Dobbs Ferry’s zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.
- No affordable housing units appear to have been built or approved in Dobbs Ferry in recent years; and although the current zoning regime provides the theoretical opportunity to develop the approximately 100 affordable units that the HOC identified as the Village’s estimated share of regional need, practical impediments make that number of affordable units difficult to achieve.
- Despite this, a developer is seeking approvals for a 202-unit mixed-income development at Rivertowns Square that would contain 10 affordable housing units.
- The available sites for new multifamily residential development are quite small, averaging only 0.1 acres. Although the sites are numerous enough to accommodate an estimated total of 273 housing units, the small size of the sites (each accommodating an average of five units) means (1) that the Village’s affordable housing mandate (for developments of ten or more units) would generally not apply, (2) that the total number of potential multifamily units is not sufficiently greater than the 105-unit affordable housing benchmark for the benchmark to be achieved within mixed-income developments, and (3) that many of the sites are too small for mixed-income developments and that any mixed-income projects that do occur would not achieve economies of scale.
- The absence of incentives decreases the likelihood that any new multifamily units will be affordable. Given the high value of multifamily housing in the Village, it appears that such incentives would likely prove effective.
- At the right densities, housing values are sufficient to induce multifamily development and mixed-income housing without financial incentives. The very high value of apartments and condo units in the Village might be sufficient to promote 80/20 mixed-income housing, which would provide less development pressure than the 90/10 mixed-income development that represents the minimum affordable housing component under the Village’s zoning ordinance, and which, unlike 90/10 development, would qualify for federal tax incentives.

- The Village contains large educational campuses and a hospital, located in multifamily housing districts. Redevelopment of any of these large sites for housing would allow the Village to make dramatic progress in meeting the benchmark.
- Although they are currently not allowed, accessory units could be considered as a means to create new development of affordable housing, given the predominantly built-out character of the Village, especially if allowed in accessory buildings (such as existing or “faux” garages), and especially if such units were marketed with the assistance of the County.

## DOBBS FERRY DATA SHEET

a. Total acreage of the Village (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	1,580 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	263.8 acres	16.7%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	13.4 acres	0.9%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes	9.0 acres	0.6%
B	0.90 acres	
CP	4.82 acres	
DB	0.44 acres	
DT	0.95 acres	
MDR1	0.57 acres	
DG	1.36 acres	
(Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))		
e. Order-of-magnitude area available for development	7.2 acres <sup>3</sup>	0.46%
B	0.72 acres	
CP	3.86 acres	
DB	0.35 acres	
DT	0.76 acres	
MDR1	0.45 acres	
DG	1.09 acres	
(Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))		
f. Number of sites available for development (See Ex. E, Village of Dobbs Ferry Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	56 sites	
g. Average size of sites (See Ex. E, Village of Dobbs Ferry Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0.1 acres	

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<sup>3</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

h. Theoretical number of multifamily units that can be developed as-of-right	273 units
B	26 units
CP	62 units
DB	36 units
DT	44 units
MDR1	7 units
DG	98 units
(See Ex. E, Village of Dobbs Ferry Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	
i. Average selling price for multifamily (condo) units	\$535,000 <sup>4</sup>
(Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	
j. Order-of-magnitude value for land, per condo unit	\$135,000 <sup>5</sup>
(Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	
k. Order-of-magnitude total cost of development, per condo unit	\$375,000 <sup>6</sup>
(Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	
l. Percent minority population	
2000 Census	(7.4% Black, 7% Hispanic) 14%
2010 Census	(7.2% Black, 10.5% Hispanic) 18%
(Ex. K, Racial Composition Table, Village of Dobbs Ferry – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	

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<sup>4</sup> Data provided by the County was rounded to the nearest thousand.

<sup>5</sup> Data provided by the County was rounded to the nearest five thousand.

<sup>6</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not adjust for variation in local land cost. Since land costs in Dobbs Ferry are in the highest quartile of the 31 eligible municipalities, total development costs in Dobbs Ferry are likely to be higher than the \$375,000 average. The spread, however, between housing prices and development costs is still likely to be considerable.

m. Percent minority population in the zoning districts  
permitting multifamily housing as-of-right

2000 Census	(5.1% Black, 8.5% Hispanic)	14% <sup>7</sup>
B	3.3% Black, 6.1% Hispanic	9%
CP	6.6% Black, 3.8% Hispanic	10%
DB	7.0% Black, 17.2% Hispanic	24%
DG	10.6% Black, 6.6% Hispanic	17%
DT	3.1% Black, 9.6% Hispanic	13%
MDR-1	4.3% Black, 5.2% Hispanic	10%
MDR-2	4.0% Black, 14.1% Hispanic	18%
MDR-H	12.4% Black, 13.3% Hispanic	26%
MF-1	2.6% Black, 7.9% Hispanic	11%
MF-2	7.5% Black, 7.8% Hispanic	15%
MF-3	2.3% Black, 7.4% Hispanic	10%
MF-4	5.6% Black, 7.0% Hispanic	13%
WFB	3.7% Black, 7.8% Hispanic	12%

2010 Census	(4.8% Black, 12.6% Hispanic)	17% <sup>8</sup>
B	5.3% Black, 15.2% Hispanic	21%
CP	1.9% Black, 4.3% Hispanic	6%
DB	4.7% Black, 23.4% Hispanic	28%
DG	3.7% Black, 10.7% Hispanic	14%
DT	4.6% Black, 14.5% Hispanic	19%
MDR-1	2.6% Black, 11.8% Hispanic	14%
MDR-2	5.3% Black, 15.2% Hispanic	21%
MDR-H	0.1% Black, 0.0% Hispanic	0%
MF-1	3.3% Black, 6.7% Hispanic	10%
MF-2	8.6% Black, 11.1% Hispanic	20%
MF-3	1.2% Black, 7.0% Hispanic	8%
MF-4	8.5% Black, 10.7% Hispanic	19%
WFB	10.6% Black, 11.3% Hispanic	22%

(Ex. K, Racial Composition Table, Village of Dobbs Ferry – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

n. Municipal status under the Settlement based on percent minority population<sup>9</sup>

2000 Census Section 7(b)

2010 Census Section 7(c)

(Ex. K, Racial Composition Table, Village of Dobbs Ferry – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

<sup>7</sup> Weighted average of the B, CP, DB, DG, DT, MDR-1, MDR-2, MDR-H, MF-1, MF-2, MF-3, MF-4 and WFB districts.

<sup>8</sup> See *supra* n. 7.

<sup>9</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

o. Westchester County 80% area median income (AMI)

2000	\$66,500
2010	\$83,800

(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)

p. Number of families at or below 80% area median income (AMI)<sup>10</sup>

2000	923	35.8%
2007-2011	757	27.9%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income

2000	\$93,127
2007-2011	\$136,357

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015  
Allocation Plan benchmark

105 units

2015 Allocation

105 units

Number of units created since 2000

0 units

(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

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<sup>10</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## TOWN OF EASTCHESTER

The Town of Eastchester's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Town to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> The Town permits a variety of housing typologies, including multifamily and mixed-use development; however, the Town prohibits accessory apartments. See Schedule of Residential District Regulations, ZONING LAW TOWN OF EASTCHESTER, Westchester County, amended May 20, 2008; Schedule of Non-Residential District Regulations, ZONING LAW TOWN OF EASTCHESTER, Westchester County, amended May 20, 2008. The Town has no mandate for affordable housing other than in senior housing developments in certain locations, and it does not provide any incentives for affordable housing units. TOWN OF EASTCHESTER LOCAL LAW § 12.H(27)(A)(a); see also TOWN OF EASTCHESTER LOCAL LAW No. 5 - 2000. Due to moderate housing values in Eastchester, development of affordable housing will prove problematic without significant financial incentives.

To date, there is little or no evidence that the Town has taken steps to reform its zoning code or otherwise develop affordable housing. Although the Town's fifteen-year-old comprehensive plan makes useful recommendations for the provision of affordable housing, these recommendations have been largely ignored. Chapter 6 - Population & Housing, *Town of Eastchester Comprehensive Plan*, adopted Feb. 18, 1997. Furthermore, the Town does not appear to have adopted the provisions of the County model zoning ordinance for affordable housing. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; TOWN OF EASTCHESTER LOCAL LAW No. 5 - 2000 (adopted Nov. 21, 2000); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). The County has indicated that Eastchester has been considering the provisions of the County model zoning ordinance since at least June 30, 2012, but it is unclear from the County's quarterly reports what progress has been made since that date. *Westchester County 2012 2Q Report*, at 16 (submitted Aug. 17, 2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).

The lack of incentives and mandates to build affordable housing inhibit the Town's ability to meet the most recent and best available estimate of its share of regional affordable housing need. The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") estimated Eastchester's fair share of regional need at slightly more than 100 affordable housing units. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). To date, only two affordable units have been approved. *Id.* Ex. N, Funding Advisory to Monitor, No. 19, (submitted June 27, 2013). The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

needs assessment that has been prepared to date. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Town's success in providing for its fair share of regional need for affordable housing.

### **Model Zoning and County Benchmark**

- The Town does not appear to have adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; TOWN OF EASTCHESTER LOCAL LAW No. 5 - 2000 (adopted Nov. 21, 2000); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- According to Westchester County's 2013 First Quarter Report, the Town has placed the Model Ordinance Provisions under consideration. Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan originally called for 104 affordable housing units in Eastchester, but only two affordable housing units have been built or approved since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. N, Funding Advisory to Monitor, No. 19, (submitted June 27, 2013).

### **Zoning Ordinance**

- Multifamily housing (defined generally in this report as buildings containing three or more housing units) is permitted as-of-right in nine of the Town's 18 zoning districts, in areas distributed geographically throughout the Town. Schedule of Residential District Regulations, ZONING LAW TOWN OF EASTCHESTER, Westchester County, amended May 20, 2008; Schedule of Non-Residential District Regulations, ZONING LAW TOWN OF EASTCHESTER, Westchester County, amended May 20, 2008.
- The only direct reference to affordable housing options is with regard to senior multi-unit housing development, which is allowed by special permit in the General Business (GB) district, with a requirement that 15 percent of the units be affordable, with restrictive covenants mandated to maintain affordability. TOWN OF EASTCHESTER LOCAL LAW § 12.H(27)(A)(a). There is a preference, however, for Eastchester residents or relatives of Eastchester residents, which could be an impediment towards increasing racial integration in the Town. TOWN OF EASTCHESTER LOCAL LAW § 12.H(27)(A)(e), § 12.H(27)(B)(a). The maximum density for senior housing developments is one unit per 700 square feet of lot area, which yields approximately 60 units per acre. TOWN OF EASTCHESTER LOCAL LAW § 12.H(27)(A)(h)(ii).
- Mixed-use development (residences above stores) is permitted as-of-right in three zoning districts. Schedule of Residential District Regulations, ZONING LAW TOWN OF EASTCHESTER, Westchester County, amended May 20, 2008; Schedule of Non-Residential District Regulations, ZONING LAW TOWN OF EASTCHESTER, Westchester County, amended May 20, 2008. In the Residential Transition (RT) district, the commercial use may not take up more than 50 percent of the total floor area, and may only be located on the ground floor. Schedule of Residential District Regulations, ZONING LAW TOWN OF EASTCHESTER, Westchester County,



amended May 20, 2008. In the Open Retail Business (ORB) and Retail Business (RB) districts, residences may be located above any authorized use. Schedule of Non-Residential District Regulations, ZONING LAW TOWN OF EASTCHESTER, Westchester County, amended May 20, 2008.

- Two-family dwellings are permitted as-of-right in ten zoning districts. Schedule of Residential District Regulations, ZONING LAW TOWN OF EASTCHESTER, Westchester County, amended May 20, 2008; Schedule of Non-Residential District Regulations, ZONING LAW TOWN OF EASTCHESTER, Westchester County, amended May 20, 2008.

### **Restrictive Practices**

- Accessory apartments do not appear to be permitted anywhere in the Town. See Schedule of Residential District Regulations, ZONING LAW TOWN OF EASTCHESTER, Westchester County, amended 5/20/2008; Schedule of Non-Residential District Regulations, ZONING LAW TOWN OF EASTCHESTER, Westchester County, amended May 20, 2008.

### **Incentives and Mandates**

- In the GB district, senior multifamily housing development must contain at least 15 percent affordable units, to be distributed among and indistinguishable from market-rate units in size and design. TOWN OF EASTCHESTER LOCAL LAW § 12.H(27)(A)(a). The occupancy for these units is limited to two persons in efficiency and one-bedroom units and three persons in two-bedroom units. TOWN OF EASTCHESTER LOCAL LAW § 12.H(27)(A)(d)(iii).
- There are no mandates for affordable family housing and no mandates for affordable housing at all other than in senior developments located in that one zoning district. See TOWN OF EASTCHESTER LOCAL LAW No. 5 - 2000.
- The Town provides no incentives for affordable housing. *Id.*

### **Zoning Map, Development Pattern and Development Potential**

- Multifamily housing (defined for this purpose as apartments, townhouses and quadraplexes) occupies 8.5 percent of the total residential acreage in the Town. Another 4.1 percent is occupied by two- and three-family housing. Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010.
- There are 31 areas in nine zoning districts in which multifamily housing is permitted as-of-right. Ex. E, Town of Eastchester, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012). They cover 10 percent of the Town's area, but most are largely built out. *Id.* at Town of Eastchester, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012). Twenty-one potential development sites have been identified in these areas; however, the sites have an average size of less than one-tenth of an acre. *Id.* at Ex. E, Town of Eastchester Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). In total, the 21 sites can accommodate an estimated 84 housing units. *Id.* at Town of Eastchester Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).

- Because the value per apartment or condo unit in the Town (roughly \$260,000) is considerably lower than the average development cost per unit (\$375,000 for multifamily and condo development in the County), it appears that further affordable housing development would not be economically feasible even with mandates and zoning density incentives. *Id.* at Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012). Subsidies, such as those available from the County under the Settlement, would likely be needed for future affordable development.

### **Master Plan**

- The Town comprehensive plan, adopted in 1997, notes that a wide variety of housing stock exists, including units affordable to those “with modest means.” Chapter 6 - Population & Housing, *Town of Eastchester Comprehensive Plan*, at 7, adopted Feb. 18, 1997.
- The plan recommends “maintain[ing] and enhanc[ing] affordability in the housing stock for the benefit of the entire Eastchester community, particularly for young families and an increasing senior citizen population.” *Id.* at 8.
- The plan also recommends addressing illegal accessory apartments and exploring the adoption of an ordinance that would permit compliant accessory apartments, though this recommendation has not been adopted. *Id.* at 7-8.
- The plan makes two additional recommendations of interest to the discussion of affordable housing: (1) “The Town, working with local realtors, should compile an index of affordable housing opportunities, and should make that listing publicly available;” and (2) “Properties obtained by the Town through tax foreclosures, should be first evaluated for their suitability to provide affordable housing opportunities.” *Id.* at 8-9.

### **Race, Ethnicity and Socioeconomic Information**

- Eastchester’s Black population increased from 0.9 percent of the Town’s total population in 2000 to 1.3 percent in 2010, and the Hispanic population increased from 3.6 percent to 6.5 percent of the Town’s total population. Ex. K, Racial Composition Table, Town of Eastchester – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 5 percent of the Town’s population to 8 percent. *Id.*
- The Town of Eastchester’s status under section 7(a) of the Settlement has not changed.<sup>2</sup>
- In districts that allow multifamily housing as-of-right, the combined number of Black and Hispanic population increased from 7 percent in 2000 to 12 percent in 2010. *Id.*
- The Town’s median family income rose from \$96,179 in 1999, as reported in the 2000 census, to \$124,148 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. See *Profile of Selected Economic Characteristics: 2000 Census*; *Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*.

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality’s eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income slightly declined from \$134,803 to \$134,643. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).

- The estimated percentage of the Town’s families earning no more than 80 percent of Westchester County’s Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – decreased from about 30.9 percent as of the 2000 census to about 27.7 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

### **Implications**

- The Town of Eastchester’s zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Town to meet the most recent and best available estimate of its share of regional affordable housing need.
- Only two affordable housing units have been built or approved since 2000.
- The only mandate for affordable housing relates to multi-unit senior housing built in one zoning district, allowable only by special permit, and which gives preference to current residents and relatives of current residents.
- Theoretically, 84 multifamily units could be developed as-of-right on existing lots currently zoned for multifamily development. The theoretical development potential is associated with a considerable number of very small sites, each of which could accommodate an average of only five units. Therefore, a considerable number of affordable housing proposals would need to go forward to produce a substantial number of affordable housing units.
- The lack of incentives or mandates also decreases the likelihood that any new multifamily units will be affordable. Because the estimated value per apartment or condo unit in the Town (roughly \$260,000) is considerably lower than the average development cost per unit (\$375,000 for multifamily and condo development in the County), it appears that future mixed-income affordable housing development would be difficult even with mandates and zoning density incentives. Subsidies, such as those available from the County under the Settlement, would likely be needed for further affordable development.
- In terms of creative solutions, the lower density options, such as quadraplexes, might be promising, particularly since the available development sites tend to be very small. Accessory housing options, though currently not allowed in the Town, would take advantage of the embedded investment in property (e.g., an individual property owner adding a unit to their house or detached garage, with no added cost for site preparation, site acquisition, etc.), especially if such units were listed on a Countywide registry of affordable units.

## EASTCHESTER DATA SHEET

a. Total acreage of the Town (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	2,184 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	224.6 acres	10.3%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	3.4 acres	0.2%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes	2.0 acres	0.1%
RB	1.47 acres	
M350	0.31 acres	
GB	0.17 acres	
(Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))		
e. Order-of-magnitude area available for development <sup>3</sup>	1.6 acres	0.1%
RB	1.18 acres	
M350	0.25 acres	
GB	0.14 acres	
(Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))		
f. Number of sites available for development (See Ex. E, Town of Eastchester Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	21 sites	
g. Average size of sites (See Ex. E, Town of Eastchester Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0.09 acres	
h. Theoretical number of multifamily units that can be developed as-of-right	84 units	
RB	48 units	
M350	30 units	
GB	6 units	
(See Ex. E, Town of Eastchester Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))		
i. Average selling price for multifamily (condo) units (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$260,000 <sup>4</sup>	
j. Order-of-magnitude value for land, per condo unit (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$40,000 <sup>5</sup>	

<sup>3</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>4</sup> Data provided by the County was rounded to the nearest thousand.

<sup>5</sup> Data provided by the County was rounded to the nearest five thousand.

k. Order-of-magnitude total cost of development, \$375,000  
per condo unit<sup>6</sup>  
(Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))

l. Percent minority population  
2000 Census (0.9% Black, 3.6% Hispanic) 5%  
  
2010 Census (1.3% Black, 6.5% Hispanic) 8%  
(Ex. K, Racial Composition Table, Town of Eastchester – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

m. Percent minority population in the zoning districts  
permitting multifamily housing as-of-right

2000 Census	(1.5% Black, 5.6% Hispanic)	7% <sup>7</sup>
M350	2% Black, 5% Hispanic	7%
M700	0% Black, 4% Hispanic	4%
M1000		NA <sup>8</sup>
M1500	0% Black, 1% Hispanic	1%
M2000		NA <sup>9</sup>
GB	0% Black, 10% Hispanic	10%
RB	2% Black, 9% Hispanic	11%
ORB	0% Black, 2% Hispanic	2%
RTD		NA <sup>10</sup>
2010 Census	(2.0% Black, 10.3% Hispanic)	12% <sup>11</sup>
M350	2.2% Black, 6.9% Hispanic	9%
M700	0.7% Black, 12.1% Hispanic	13%
M1000		NA <sup>12</sup>
M1500	0.2% Black, 4.3% Hispanic	5%
M2000		NA <sup>13</sup>
GB	1.0% Black, 18.0% Hispanic	19%
RB	3.0% Black, 16.9% Hispanic	20%
ORB	0.0% Black, 5.0% Hispanic	5%
RTD	6.7% Black, 12.5% Hispanic	19%

(Ex. K, Racial Composition Table, Town of Eastchester – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

<sup>6</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in Eastchester are in the lowest quartile of the 31 eligible municipalities, total development costs in Eastchester are likely to be lower than the \$375,000 average.

<sup>7</sup> Weighted average of the M350, M700, M1500, GB, RB and ORB districts.

<sup>8</sup> Census figures were not provided for this district.

<sup>9</sup> Census figures were not provided for this district.

<sup>10</sup> Census figures were not provided for this district.

<sup>11</sup> Weighted average of the M350, M700, M1500, GB, RB, ORB and RTD districts.

<sup>12</sup> Census figures were not provided for this district.

<sup>13</sup> Census figures were not provided for this district.

n. Municipal status under the Settlement based on percent minority population<sup>14</sup>  
 2000 Census Section 7(a)  
 2010 Census Section 7(a)  
 (Ex. K, Racial Composition Table, Town of Eastchester – 2000 & 2010 Census Data  
 (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)  
 2000 \$66,500  
 2010 \$83,800  
 (Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban  
 Development)

p. Number of families at or below 80% area median income (AMI)<sup>15</sup>  
 2000 1596 30.9%  
 2007-2011 1,454 27.7%  
 (*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic  
 Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income  
 2000 \$96,179  
 2007-2011 \$124,148  
 (*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic  
 Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark 102 units  
 2015 Allocation 104 units  
 Number of units created since 2000 2 units  
 (See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-  
 2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. N, Funding Advisory to  
 Monitor, No. 19, (submitted June 27, 2013))

<sup>14</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

<sup>15</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## TOWN AND VILLAGE OF HARRISON

The Town and Village of Harrison employ the same zoning regulations and procedures. TOWNVILLAGE OF HARRISON CODE (2012). Harrison's current zoning code does not appear to provide meaningful opportunities for the development of affordable housing to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> Harrison provides no incentives or mandates for affordable housing, such as mandatory set-asides in new multifamily development. Ex. F, Town/Village of Harrison Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); see also Zoning, TOWNVILLAGE OF HARRISON CODE Ch. 235. Harrison provides unusually generous bulk regulations for multifamily developments, which allow the development of even small sites. TOWNVILLAGE OF HARRISON CODE § 235-7.I. Only 0.3 percent of the town's acreage, however, is zoned for as-of-right multifamily development, and according to the County's data, these zones are largely built out. Ex. E, Town of Harrison, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).

The Town's and Village's draft master plan, released in September 2012, acknowledges that alternate forms of housing are needed to improve the variety and affordability of housing opportunities. *Town/Village of Harrison Comprehensive Plan Update*, at 21, draft Sept. 2012. Nevertheless, to date, there is little or no evidence that the Town and Village have taken steps to reform its zoning code or otherwise develop affordable housing. Harrison has not adopted the provisions of the County model zoning ordinance for affordable housing. Although the County has indicated that Harrison has been considering the provisions of the County model zoning ordinance since at least December 31, 2011, it is unclear from the County's quarterly reports what progress has been made since that date. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Ex. M, *Westchester County 2011 4Q Report*, at 18 (submitted Feb. 2, 2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). Despite being given multiple opportunities to respond to a survey conducted by the County Planning Department, the Town and Village have not reported the construction of any affordable housing units since 2000. See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

Harrison's zoning restrictions and lack of incentives may also inhibit its ability to meet the most recent and best available estimate of its share of regional affordable housing need. The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") estimated Harrison's fair share of regional need at about 750 affordable housing units. *Id.* The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Town's and Village's success in providing for the most recent and best available estimate of its share of regional affordable housing need.

### **Model Zoning and County Benchmark**

- The Town and Village have not adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, TOWNVILLAGE OF HARRISON CODE Ch. 235; Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- According to Westchester County's 2013 First Quarter Report, Harrison has placed the Model Ordinance Provisions under consideration. Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan originally estimated for 756 affordable housing units in Harrison, but there is no indication that any affordable housing units have been built or approved since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

### **Zoning Ordinance**

- Multifamily development is permitted as-of-right in three zoning districts (MF, MFR and GA). Ex. F, Town/Village of Harrison Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Residence Districts Table of Use Regulations, TOWNVILLAGE OF HARRISON CODE § 235 Attachment 1; Business Districts Table of Use Regulations, TOWNVILLAGE OF HARRISON CODE § 235 Attachment 3. Multifamily development is also allowed by special permit in one zoning district. Ex. F, Town/Village of Harrison Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Residence Districts Table of Use Regulations, TOWNVILLAGE OF HARRISON CODE § 235 Attachment 1; Business Districts Table of Use Regulations, TOWNVILLAGE OF HARRISON CODE § 235 Attachment 2.
- Residences above stores are permitted as-of-right in one zoning district and by special permit in four zoning districts. Ex. F, Town/Village of Harrison Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Residence Districts Table of Use Regulations, TOWNVILLAGE OF HARRISON CODE § 235 Attachment 1; Business Districts Table of Use Regulations, TOWNVILLAGE OF HARRISON CODE § 235 Attachment 3.
- In the MF Multifamily district, any permitted use or structure may extend into a neighboring B Two-Family Residence District, provided that all lots are under single ownership, the land in the B district is only used for parking or open space, and all access is provided through the MF district. TOWNVILLAGE OF HARRISON CODE § 235-7.1. This provides flexibility not typically afforded multifamily housing development in the rest of the County.
- Bulk regulations for multifamily buildings are unusually generous for Westchester. Multifamily buildings in the MF and MFR districts have a maximum permitted height of four stories, and the minimum lot sizes are small enough to allow development on a variety of lots. Residence Districts Table of Dimensional Regulations, TOWNVILLAGE OF HARRISON CODE § 235 Attachment 2.
- Two-family dwellings are permitted as-of-right in three zoning districts. Ex. F, Town/Village of Harrison Table, *Review and Analysis of Municipal Zoning*



*Ordinances in Westchester County* (submitted Feb. 29, 2012); Residence Districts Table of Use Regulations, TOWNVILLAGE OF HARRISON CODE § 235 Attachment 1; Business Districts Table of Use Regulations, TOWNVILLAGE OF HARRISON CODE § 235 Attachment 3.

### **Restrictive Practices**

- Accessory apartments are prohibited anywhere in Harrison. Ex. F, Town/Village of Harrison Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); see also Zoning, TOWNVILLAGE OF HARRISON CODE Ch. 235.

### **Incentives and Mandates**

- There are no incentives or mandates for building affordable housing. Ex. F, Town/Village of Harrison Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); see also Zoning, TOWNVILLAGE OF HARRISON CODE Ch. 235.

### **Zoning Map, Development Pattern and Development Potential**

- The three zones that permit multifamily development as-of-right are located in five areas, containing 3 percent of Harrison's land area, but three of the areas are entirely built out. Ex. E, Town of Harrison, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).
- In two of the areas, seven small sites, averaging only 0.1 acres in size, are available for development at this time. *Id.* In total, the identified sites could accommodate about 45 housing units through as-of-right multifamily development. *Id.*
- Only 0.8 percent of the residential acreage is occupied by multifamily housing (defined for this purpose as apartments, townhouses and quadraplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. Another 4.8 percent is occupied by two- and three-family housing. *Id.*

### **Master Plan**

- The Town's and Village's comprehensive plan, a draft of which was released in September 2012, acknowledges the affordability gap among Harrison residents and suggests that alternate forms of housing are needed to improve the variety and affordability of housing opportunities. *Town/Village of Harrison Comprehensive Plan Update*, at 21, draft Sept. 2012.
- The plan, however, makes no specific recommendations for where these new housing types might be located, or what zoning changes might be implemented to allow new affordable housing. See generally *Town/Village of Harrison Comprehensive Plan Update*, draft Sept. 2012.

### **Race, Ethnicity and Socioeconomic Characteristics**

- Harrison's Black population increased from 1.4 percent of the Town's and Village's population in 2000 to 2.4 percent in 2010, and the Hispanic population increased from 6.7 percent in 2000 to 11.7 percent in 2010. Ex. K, Racial Composition Table, Town/Village of Harrison – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population

increased from 8 percent to 14 percent of the Town's and Village's population. *Id.*

- This increase adjusts Harrison's status under section 7(a) of the Settlement to section 7(c).<sup>2</sup>
- In districts that allow multifamily housing as-of-right, the combined number of Black and Hispanic population increased from 8 percent in 2000 to 14 percent in 2010. *Id.*
- The Town's and Village's median family income rose from \$98,167 in 1999, as reported in the 2000 census, to \$131,667 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. See *Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*. Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income increased from \$137,589 to \$142,798. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Town's and Village's families earning no more than 80 percent of Westchester County's Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – increased from about 32 percent as of the 2000 census to about 33.2 percent as of the 2007-2011 American Community Survey. See *Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*.

### Implications

- Harrison's current zoning code does not appear to provide meaningful opportunities for the development of affordable housing to meet the most recent and best available estimate of its share of regional affordable housing need.
- There is no indication that any affordable housing has been built or approved in Harrison since 2000.
- Although the Town's and Village's multifamily housing bulk regulations are unusually generous and allow multifamily development even on small lots, few available development sites exist within the mapped multifamily zones. The available sites are so small that they can accommodate a total of only about 45 housing units.
- The absence of any incentives or mandates decreases the likelihood that any new multifamily units will be affordable.
- The spread between the value per apartment or condo unit (roughly \$408,000) and the cost of development (averaging \$375,000 per unit for multifamily and condo development in the County) may not be great enough to encourage mixed-income development, particularly on small sites. Some subsidies, such as those available from the County under the Settlement, would likely be needed for future affordable, and perhaps in mixed-income, development.

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

- Few if any affordable housing units will be provided unless Harrison (in some combination) adopts the mandate called for in the model ordinance, increases the area where multifamily housing is allowed, permits housing above stores in additional commercial districts, implements the comprehensive plan's suggestion to allow alternative types of affordable housing (such as accessory housing units), and provides the needed incentives.
- Even with additional Town and Village actions, further development of affordable housing will remain difficult without assistance in the form of financial subsidies and marketing assistance (such as the maintenance of a Countywide registry of affordable units).

## HARRISON DATA SHEET

a. Total acreage of the Town and Village (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	11,147 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	32.9 acres	0.3%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	1.5 acres	0.01%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes	1.2 acres	0.01%
MF	0.70 acres	
MFR	0.45 acres	
(Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))		
e. Order-of-magnitude area available for development	0.9 acres <sup>3</sup>	0.01%
MF	0.56 acres	
MFR	0.36 acres	
(Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))		
f. Number of sites available for development (See Ex. E, Town of Harrison Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	7 sites	
g. Average size of sites (See Ex. E, Town of Harrison Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0.1 acres	
h. Theoretical number of multifamily units that can be developed as-of-right	45 units	
MF	32 units	
MFR	13 units	
(See Ex. E, Town of Harrison Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))		
i. Average selling price for multifamily (condo) units (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$408,000 <sup>4</sup>	
j. Order-of-magnitude value for land, per condo unit (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$102,000 <sup>5</sup>	

<sup>3</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>4</sup> Data provided by the County was rounded to the nearest thousand.

<sup>5</sup> Data provided by the County was rounded to the nearest thousand.

k. Order-of-magnitude total cost of development, \$375,000<sup>6</sup>  
per condo unit  
(Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))

l. Percent minority population  
2000 Census (1.4% Black, 6.7% Hispanic) 8%  
2010 Census (2.4% Black, 11.7% Hispanic) 14%  
(Ex. K, Racial Composition Table, Town/Village of Harrison – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

m. Percent minority population in the zoning districts  
permitting multifamily housing as-of-right  
2000 Census (0.8% Black, 6.8% Hispanic) 8%<sup>7</sup>  
MF 2.1% Black, 6.9% Hispanic 9%  
MFR 0.3% Black, 8.1% Hispanic 8%  
GA 0.0% Black, 2.4% Hispanic 2%  
2010 Census (1.5% Black, 12.5% Hispanic) 14%<sup>8</sup>  
MF 0.9% Black, 9.9% Hispanic 11%  
MFR 2.6% Black, 17.8% Hispanic 20%  
GA 0.7% Black, 5.6% Hispanic 6%  
(Ex. K, Racial Composition Table, Town/Village of Harrison – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

n. Municipal status under the Settlement based on percent minority population<sup>9</sup>  
2000 Census Section 7(a)  
2010 Census Section 7(c)  
(Ex. K, Racial Composition Table, Town/Village of Harrison – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

<sup>6</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in Irvington are in the second quartile of the 31 eligible municipalities, total development costs in Harrison are likely to be higher than the \$375,000 average. The spread, however, between housing prices and development costs is still likely to be considerable.

<sup>7</sup> Weighted average of the MF, MFR and GA districts.

<sup>8</sup> Weighted average of the MF, MFR and GA districts.

<sup>9</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point l of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point l of this data sheet are likely higher than they would be for the purposes of determining eligibility.

o. Westchester County 80% area median income (AMI)		
2000		\$66,500
2010		\$83,800
(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)		
p. Number of families at or below 80% area median income (AMI) <sup>10</sup>		
2000	2,017	32.0%
2007-2011	2,247	33.2%
(Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates)		
q. Median family income		
2000		\$98,167
2007-2011		\$131,667
(Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates)		
r. Number of units needed to meet the 2000-2015		
Allocation Plan benchmark		756 units
2015 Allocation		756 units
Number of units created since 2000		0 units
(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))		

<sup>10</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## VILLAGE OF HASTINGS-ON-HUDSON

The Village of Hastings-on-Hudson appears to provide meaningful opportunities for the development of affordable housing sufficient to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> Hastings-on-Hudson has adopted the provisions of the County model zoning ordinance for affordable housing and provides a mandate for affordable housing in all residential zones and a robust alternative for meeting this obligation either off-site or through a contribution to a housing trust fund. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; VILLAGE OF HASTINGS-ON-HUDSON CODE §§ 295-112.1; 295-133.1 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013). Developers are seeking approvals for two proposed affordable housing projects that would contain a combined total of 14 affordable units. See Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013). Additionally, the County has reported that there is currently a proposal to rehabilitate one three-family home and convert it to three condominium affordable housing units, pursuant to the County's obligations under the Settlement. *Id.*

Although the zoning code provides opportunity for affordable housing development, the Village would still need to build a significant number of units to meet the most recent and best available estimate of its share of regional affordable housing need. The Village has met roughly one-fifth of the approximately 100 affordable housing unit goal set by the 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC"). Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Village's success in providing for its fair share of regional need for affordable housing.

### Model Zoning and County Benchmark

- Hastings-on-Hudson has adopted the provisions of the County model zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions, August 9, 2010; Zoning, VILLAGE OF HASTINGS-ON-HUDSON CODE Ch. 295 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15-16 (submitted May 10, 2013).
- Developers are seeking approvals for three proposed affordable housing projects (a mixed income multifamily housing development, a single-family home with an accessory unit and the acquisition and rehabilitation of a three-family home) that would contain a combined total of 17 affordable units. See Ex. G, *Westchester*

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

*County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013).

- The HOC's 2005 Affordable Housing Allocation Plan originally estimated for just under 100 affordable housing units in Hastings-on-Hudson, of which 21 have been built or approved in the interim. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

### **Zoning Ordinance**

- At least 15 percent of any development of eight or more units must be set aside for income-restricted households. VILLAGE OF HASTINGS-ON-HUDSON CODE § 295-112.1.A(1). Ten percent must be “affordable housing units,” and at least 5 percent more must be either “affordable” or “workforce” housing units. *Id.* The definition of *affordable housing unit* is consistent with the model ordinance definition: one that must be sold to a household earning no more than 80 percent of the Westchester area median income (AMI) or rented to a household earning no more than 60 percent of AMI. VILLAGE OF HASTINGS-ON-HUDSON CODE § 295-5. Workforce housing units have higher income limits: up to 120 percent of AMI in the case of for-purchase units and up to 90 percent of AMI in the case of rental units. *Id.*
- If it would be impractical for the affordable housing obligation to be met on-site, the Village allows the obligation to be met off-site or via a contribution to a special affordable housing fund equal to the cost to acquire a site and develop the required number of affordable and workforce housing units. VILLAGE OF HASTINGS-ON-HUDSON CODE § 295-112.1.A(5).
- Requirements for the appearance, distribution, administration and deed restrictions on affordable housing units are consistent with the model zoning ordinance. *Compare* Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions, August 9, 2010, *with* VILLAGE OF HASTINGS-ON-HUDSON CODE § 295-112.1.A.
- Multifamily housing is permitted as-of-right in six zoning districts (MR-2.5, MR-1.5, MR-C, MR-O, MUPDD and Marine Waterfront-B). VILLAGE OF HASTINGS-ON-HUDSON CODE §§ 295-71.A, 295-72.A, 295-72.1.A(2), 295-72.2.A, 295-72.3.B(1), 295-84.C(1). One of these zoning districts (MR-O), however, allows only three-family homes as-of-right; this district allows developments of four or more housing units by special permit. VILLAGE OF HASTINGS-ON-HUDSON CODE §§ 295-72.1.A(2), 295-72.1.B(2). One other district (Marine Waterfront-A) allows multifamily housing by special permit. VILLAGE OF HASTINGS-ON-HUDSON CODE § 295-83.C(1)(c).
- Two-family dwellings are permitted as-of-right in six districts (2R, 2R-3.5, MR-2.5, MR-1.5, MR-O and MR-C). VILLAGE OF HASTINGS-ON-HUDSON CODE §§ 295-70.A, 295-70.1.A(2), 295-71.A(1), 295-72.A(1), 295-72.1.A(1), 295-72.2.A(1).
- Accessory units are permitted as-of-right in existing buildings in eleven districts (R-20, R-10, R7.5, 2R, 2R 3.5, MR-2.5, MR-1.5, MR-O, MR-C, LO and CO). VILLAGE OF HASTINGS-ON-HUDSON CODE §§ 295-67.D(2)(b)(1)(c), 295-68.C, 295-69.C, 295-70.C, 295-70.1.D, 295-71C(1), 295-72.C, 295-72.1.C, 295-72.2.C, 295-73.C, 295-74.C(1). One district allows for accessory apartments in existing buildings by special permit. VILLAGE OF HASTINGS-ON-HUDSON CODE § 295.70.1.D. Accessory units are permitted in newly constructed single-family



homes only in the case of affordable housing units. VILLAGE OF HASTINGS-ON-HUDSON CODE § 295-67.D.2(b)(1)(c).

- Housing is allowed above stores in the retail districts. VILLAGE OF HASTINGS-ON-HUDSON CODE §§ 295-72.3.B(5), 295-76.A(16), 295-77.A(1), 295-78.A.

### **Restrictive Practices**

- Affordable accessory housing units in newly constructed single-family homes are limited to one bedroom, while other accessory units can include up to two bedrooms. VILLAGE OF HASTINGS-ON-HUDSON CODE § 295-67.D(2)(b)(1)(j).

### **Incentives and Mandates**

- In all districts, including single-family districts, any development of eight or more units must set aside (1) 10 percent of the units as affordable housing and (2) at least another 5 percent of the units as either affordable or workforce housing. VILLAGE OF HASTINGS-ON-HUDSON CODE § 295-112.1.A(1).
- If it would be impractical for the affordable housing obligation to be met on-site, the Village allows the obligation to be met off-site or via a contribution to a special affordable housing fund equal to the cost of construction. VILLAGE OF HASTINGS-ON-HUDSON CODE § 295-112.1.A(5).
- If a single-family home is to be an affordable housing unit, the minimum lot size is reduced by 25 percent. VILLAGE OF HASTINGS-ON-HUDSON CODE § 295-112.1.A(8).
- The Planning Board may increase the maximum number of dwelling units and bedrooms by up to 10 percent if, for every market rate unit in excess of the usually applicable maximum, one affordable housing unit is also provided. VILLAGE OF HASTINGS-ON-HUDSON CODE § 295-112.1.A(9).
- The Village's fee in lieu of parkland is waived for affordable housing units. VILLAGE OF HASTINGS-ON-HUDSON CODE § 295-112.D.

### **Zoning Map, Development Pattern and Development Potential**

- The affordable housing mandate is applied Village-wide for all residential development of eight or more units. VILLAGE OF HASTINGS-ON-HUDSON CODE § 295-112.1A.
- At present, 13.85 percent of the residential acreage is occupied by multifamily housing, inclusive of two- and three-family housing. Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010; Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).
- The six zoning districts allowing as-of-right multifamily development are located in eight areas of the Village, containing 7 percent of the Village's area. Three of the areas are built out, however. Ex. E, Village of Hastings-on-Hudson, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).
- The other five areas (zoned MR-1.5, MR-2.5, MR-C, MR-O and MUPDD) contain a total of 16 sites that are available for new development. *Id.* at Village of Hastings-on-Hudson, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). The size of the sites varies widely; some sites are extremely small, while others are of substantial size. *Id.* In total, the sites can accommodate an estimated 71 housing units as-of-right, not accounting for affordable housing. *Id.*

- Developers are seeking approvals for three proposed affordable housing projects that would contain a combined total of 174 affordable units. See Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013). One would contain a total of 66 housing units, of which 12 would be affordable; one would consist of two affordable housing units; and the other would consist of three affordable housing units. *Id.*
- The large proposed development would be located on three contiguous sites that were identified above as available for new development, on which an estimated 16 units could be built as-of-right without density bonuses. *Id.* If the proposed development is approved and built, it would therefore reduce to 55 the estimated number of additional as-of-right multifamily housing units that can be accommodated on available sites. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).
- Two of the zoning districts that permit multifamily development and contain available sites already have relatively high percentages of minority residents. Ex. K, Racial Composition Table, Village of Hastings – 2000 & 2010 Census Data (submitted Aug. 15, 2012). Approximately 20 of the estimated housing units that can be accommodated on available sites would be in the MR-C and MR-O districts, which in 2000 had populations that were 30 and 26 percent minority, respectively, compared with 7 percent in the Village as a whole. Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012); Ex. K, Racial Composition Table, Village of Hastings – 2000 & 2010 Census Data (submitted Aug. 15, 2012). In 2010, their populations were 39 and 40 percent minority, respectively, compared with 14 percent in the Village as a whole. Ex. K, Racial Composition Table, Village of Hastings – 2000 & 2010 Census Data (submitted Aug. 15, 2012). High concentrations of minority populations may disqualify some sites for additional affordable housing development.
- At the right densities, housing values are sufficient to induce multifamily development and mixed-income housing without the need for subsidies. See Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012).

#### **Master Plan**

- The Village's new comprehensive plan directly and affirmatively addresses affordable housing. *Village of Hastings-on-Hudson Comprehensive Plan*, at 90-99, adopted July 19, 2011.

#### **Race, Ethnicity and Socioeconomic Characteristics**

- Hastings-on-Hudson's Black population increased from 2.4 percent of the Village's total population in 2000 to 4.6 percent in 2010, and the Hispanic population increased from 4.5 percent to 9.1 percent of the Village's total population. Ex. K, Racial Composition Table, Village of Hastings-on-Hudson – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 7 percent of the Village's population to 14 percent. *Id.*

- This increase adjusts the Village’s status under section 7(a) of the Settlement to section 7(b).<sup>2</sup>
- In districts that allow multifamily housing as-of-right, the combined Black and Hispanic population increased from 11 percent in 2000 to 19 percent in 2010. *Id.*
- The Village’s median family income rose from \$111,227 in 1999, as reported in the 2000 census, to \$159,342 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income increased from \$155,894 to \$172,812. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Village’s families earning no more than 80 percent of Westchester County’s Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – decreased from about 25.2 percent as of the 2000 census to about 18.2 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

## Implications

- The Village of Hastings-on-Hudson appears to provide meaningful opportunities for the development of affordable housing sufficient to meet the most recent and best available estimate of its share of regional affordable housing need.
- Developers are seeking approvals for three proposed affordable housing projects that would contain a combined total of 17 affordable units.
- In all districts, including single-family districts, any development of eight or more units must set aside 10 percent of the units as affordable housing and at least another 5 percent of the units as either affordable or workforce housing.
- At the right densities, housing values are sufficient to induce multifamily development and mixed-income housing without the need for subsidies. The very high value of apartments and condo units in the Village should be sufficient to promote 80/20 mixed-income housing (that is, 80 percent market-rate units and 20 percent affordable units), which would provide less development pressure than the 85/15 mixed-income development that represents the minimum affordable housing component under the Village’s zoning ordinance, and which, unlike 85/15 development, would qualify for federal tax incentives.
- The Village contains properly zoned development sites that can accommodate up to an estimated 71 housing units (which would be reduced to 55 units if the proposed developments mentioned above move forward).

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality’s eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

## HASTINGS-ON-HUDSON DATA SHEET

a. Total acreage of the Village (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	1,264 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	84.9 acres	6.7%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	10.6 acres	0.8%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes	8.0 acres	0.6%
MR-1.5	0.28 acres	
MR-2.5	2.15 acres	
MR-C	0.22 acres	
MR-O	0.19 acres	
MUPDD	5.14 acres	
(Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))		
e. Order-of-magnitude area available for development	6.4 acres <sup>3</sup>	0.5%
MR-1.5	0.22 acres	
MR-2.5	1.72 acres	
MR-C	0.17 acres	
MR-O	0.15 acres	
MUPDD	4.11 acres	
(Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))		
f. Number of sites available for development (See Ex. E, Village of Hastings-on-Hudson Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	16 sites	
g. Average size of sites (See Ex. E, Village of Hastings-on-Hudson Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0.3 acres	
h. Theoretical number of multifamily units that can be developed as-of-right	71 units	
MR-1.5	6 units	
MR-2.5	29 units	
MR-C	13 units	
MR-O	7 units	
MUPDD	16 units	
(See Ex. E, Village of Hastings-on-Hudson Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))		

<sup>3</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

i. Average selling price for multifamily (condo) units (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$755,000 <sup>4</sup>
j. Order-of-magnitude value for land, per condo unit (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$225,000 <sup>5</sup>
k. Order-of-magnitude total cost of development, per condo unit (Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	\$375,000 <sup>6</sup>
l. Percent minority population	
2000 Census (2.4% Black, 4.5% Hispanic)	7%
2010 Census (4.6% Black, 9.1% Hispanic)	14%
(Ex. K, Racial Composition Table, Village of Hastings-on-Hudson – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	
m. Percent minority population in the zoning districts permitting multifamily housing as-of-right	
2000 Census (2.6% Black, 8.8% Hispanic)	11% <sup>7</sup>
MR-1.5 1.5% Black, 4.9% Hispanic	6%
MR-2.5 1.1% Black, 5.1% Hispanic	6%
MR-C 13.3% Black, 16.6% Hispanic	30%
MR-O 3.2% Black, 22.3% Hispanic	26%
MUPDD	N/A <sup>8</sup>
Marine Waterfront 1.5% Black, 5.9% Hispanic	7%
2010 Census (4.0% Black, 15.0% Hispanic)	19% <sup>9</sup>
MR-1.5 3.7% Black, 11.9% Hispanic	16%
MR-2.5 0.6% Black, 6.6% Hispanic	7%
MR-C 8.3% Black, 30.8% Hispanic	39%
MR-O 8.5% Black, 31.7% Hispanic	40%
MUPDD	N/A <sup>10</sup>
Marine Waterfront	N/A <sup>11</sup>
(Ex. K, Racial Composition Table, Village of Hastings-on-Hudson – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	

<sup>4</sup> Data provided by the County was rounded to the nearest thousand.

<sup>5</sup> Data provided by the County was rounded to the nearest thousand.

<sup>6</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not adjust for variation in local land cost. Since land costs in Hastings-on-Hudson are in the highest quartile of the 31 eligible municipalities, total development costs in Hastings-on-Hudson are likely to be higher than the \$375,000 average. The spread, however, between housing prices and development costs is still likely to be considerable.

<sup>7</sup> Weighted average of the MR-1.5, MR-2.5, MR-C, MR-O and Marine Waterfront districts.

<sup>8</sup> If the total population is fewer than ten persons, the Census Bureau does not report racial breakdown.

<sup>9</sup> Weighted average of the MR-1.5, MR-2.5, MR-C and MR-O districts.

<sup>10</sup> Weighted average of the MR-1.5, MR-2.5, MR-C and MR-O districts.

<sup>11</sup> Not reported for 2010.

n. Municipal status under the Settlement based on percent minority population<sup>12</sup>  
 2000 Census Section 7(a)  
 2010 Census Section 7(b)  
 (Ex. K, Racial Composition Table, Village of Hastings– 2000 & 2010 Census Data  
 (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)  
 2000 \$66,500  
 2010 \$83,800  
 (Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban  
 Development)

p. Number of families at or below 80% area median income (AMI)<sup>13</sup>  
 2000 528 25.2%  
 2007-2011 375 18.2%  
 (*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic  
 Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income  
 2000 \$111,227  
 2007-2011 \$159,342  
 (*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic  
 Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark 76 units  
 2015 Allocation 97 units  
 Number of units created since 2000 21 units  
 (See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-  
 2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

<sup>12</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

<sup>13</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## VILLAGE OF IRVINGTON

The Village of Irvington's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> Irvington suffers from a lack of developable land for as-of-right multifamily housing. The County, in its analysis, found that only roughly three percent of the Village's acreage is zoned for as-of-right multifamily development, and there were no undeveloped sites in these zones. Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). The relatively limited amount of land zoned for multifamily housing may inhibit the further development of affordable housing in Irvington. Alternatives to multifamily housing as a source of affordable housing, such as accessory units, are also restricted.

Irvington has, however, made progress in reforming its zoning code to provide more opportunities for affordable housing by adopting the provisions of the County model zoning ordinance for affordable housing. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, VILLAGE OF IRVINGTON CODE § 224-173-87 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013). The Village has further indicated that it is considering additional measures, including the recommendations made in this report, towards alleviating the regional need for affordable housing. Ex. H, Village of Irvington Response Letter from Mayor Brian C. Smith, dated April 18, 2013.

In part because of the limited availability of developable land that is zoned for as-of-right multifamily housing and the lack of viable alternatives, the Village has made almost no progress towards achieving its most recent and best available estimate of its share of regional affordable housing need. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") estimated Irvington's fair share of regional need at slightly more than 150 affordable housing units in Irvington. *Id.* The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Village's success in providing for its most recent and best available estimate of its share of regional affordable housing need.

### Model Zoning and County Benchmark

- The Village has not adopted the provisions of the County's model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan,

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

Appendix D-1(i): Model Ordinance Provisions; Zoning, VILLAGE OF IRVINGTON CODE § 224-173-87 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).

- The HOC’s 2005 Affordable Housing Allocation Plan originally estimated for 156 affordable housing units in Irvington, of which only four have been built or approved since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

### **Zoning Ordinance**

- Multifamily developments (generally defined in this report as developments including three or more housing units) are permitted as-of-right in one zoning district and by special permit in an additional district. VILLAGE OF IRVINGTON CODE §§ 224-17.C, 224-39.E(1)(a).
- Mixed-use developments (housing over stores) are permitted in two commercial zoning districts. VILLAGE OF IRVINGTON CODE §§ 224-36.A(14), 224-39.E.
- Two-family dwellings are permitted as-of-right in two zoning districts and by special permit in one commercial district. VILLAGE OF IRVINGTON CODE §§ 224-15.B, 224-17.B, 224-39.E.

### **Restrictive Practices**

- Accessory units are permitted as-of-right in single-family zoning districts, but only on lots of at least 60,000 square feet, and occupancy is restricted to the son or daughter of the primary building residents. VILLAGE OF IRVINGTON CODE § 224-8.B(7)(a).

### **Incentives and Mandates**

- According to the model zoning ordinance adopted by the Village, any development of more than 10 units must include 10 percent affordable units, and any development of five to nine units must include at least one affordable unit. VILLAGE OF IRVINGTON CODE § 224-175.
- The Village permits single-family and two-family affordable units on smaller lot sizes than are normally required for such housing. VILLAGE OF IRVINGTON CODE § 224-179. Each single-family affordable housing unit may be located on a lot meeting 75 percent of the otherwise applicable minimum lot area. *Id.* Each affordable two-family home may be located on a lot meeting the minimum lot area applicable to a single-family home. *Id.*
- The zoning code has a special permit for below-market-rate units developed in 1F-10 zones. VILLAGE OF IRVINGTON CODE § 224-8.D(6). These units are limited to Village employees, fire/EMS volunteers and resident senior citizens. *Id.* As an incentive, the Village increases the allowable number of housing units and issues a waiver of site capacity requirements. *Id.*
- Applicants for developments that include affordable housing units are entitled to an expedited review process. VILLAGE OF IRVINGTON CODE § 224-187.

### **Zoning Map, Development Pattern and Development Potential**

- Five areas in the Village are zoned for as-of-right multifamily development, containing 3 percent of the Village’s land area, but all are fully built out. Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012). The County



identified no available development sites in these areas. *Id.* at Methodology II-D-2 Table August 2012 (submitted Sep. 6, 2012).

- Currently 14.6 percent of the Village's total land area is occupied by multifamily housing (defined for this purpose as apartment, townhouse, or quadraplex development). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010; Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012). Two- and three-family housing occupy an additional 2.77 percent. *Id.* Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010.

### **Master Plan**

- The most recent comprehensive plan, completed in 2003, recommends adopting zoning-based mandates and incentives (density bonuses) for below-market-rate housing. *Village of Irvington 2003 Comprehensive Plan*, at 31, adopted March 2003. The recommended incentives are consistent with those in the model zoning ordinance. Compare Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions, with *Village of Irvington 2003 Comprehensive Plan*, at 31, adopted March 2003. As is discussed above, the Village's zoning ordinance does provide mandates and density bonuses. VILLAGE OF IRVINGTON CODE §§ 224-178, 224-180, 224-182.

### **Race, Ethnicity and Socioeconomic Characteristics**

- Irvington's Black population increased slightly from 1.5 percent of the Village's total population in 2000 to 1.9 percent in 2010, and the Hispanic population increased from 3.8 percent to 6.2 percent of the Village's total population. Ex. K, Racial Composition Table, Village of Irvington – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 5 percent of the Village's population to 8 percent. *Id.*
- Despite this increase, the Village of Irvington's status under section 7(a) of the Settlement has not changed.<sup>2</sup>
- In districts that allow multifamily housing as-of-right, the combined number of Black and Hispanic population increased from 2 percent in 2000 to 8 percent in 2010. *Id.*
- The Village's median family income rose from \$120,895 in 1999, as reported in the 2000 census, to \$159,125 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. See *Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*. Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income increased from \$169,445 to \$172,577. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Village's families earning no more than 80 percent of Westchester County's Area Median Income (AMI) – that is, the

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

percentage of families in the low and moderate income ranges – increased from about 21.1 percent as of the 2000 census to about 24.2 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

### **Implications**

- The Village of Irvington’s zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village the most recent and best available estimate of its share of regional affordable housing need.
- The Village has adopted the provisions of the model zoning ordinance to mandate affordable housing development and to provide zoning density incentives for affordable one- and two-family homes.
- Except for expedited review, the Village provides no incentives for multifamily affordable housing, although it does provide density bonuses by special permit in limited circumstances (only for housing limited to Village employees or volunteers or resident senior citizens, and only in one zoning district).
- At the right densities, estimated housing values are sufficient to induce multifamily development and mixed-income housing without the need for subsidies. The high value of apartments and condo units in the Village should be sufficient to promote 80/20 mixed-income housing (that is, 80 percent market-rate units and 20 percent affordable units), which would provide less development pressure than the 90/10 mixed-income development that represents the minimum affordable housing component under the Village’s zoning ordinance, and which, unlike 90/10 development, would qualify for federal tax incentives.
- Although the Village allows multifamily housing as-of-right in one zoning district, the district, as currently mapped, is fully built out, with no available development sites.
- The absence of potential sites for all but low-density development of affordable housing means that there is very little likelihood that, under the current zoning regime, the Village will satisfy its affordable housing obligation.
- Additional actions are needed for the Village to meet its estimated share of regional affordable housing need. These might include, in some combination, mapping additional areas for multifamily housing, broadening the availability of incentives for affordable multifamily housing, loosening restrictions on accessory housing units (e.g., by removing the restriction that they must be let to children of the home’s primary resident), and providing opportunities for additional types of low-density development (such as quadraplexes).
- Even with additional Village actions, affordable housing will remain difficult without assistance in the form of financial subsidies or marketing (such as the maintenance of a Countywide registry of affordable units).

## IRVINGTON DATA SHEET

a. Total acreage of the Village (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	1,809 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	56.4 acres	3.1%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	0.5 acres <sup>3</sup>	0.02%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes (Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))	0.3 acres	0.02%
e. Order-of-magnitude area available for development (Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))	0.3 acres <sup>4</sup>	0.01%
f. Number of sites available for development	0 sites	
g. Average size of sites (Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0 acres	
h. Theoretical number of multifamily units that can be developed as-of-right (Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0 units	
i. Average selling price for multifamily (condo) units (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$535,000 <sup>5</sup>	
j. Order-of-magnitude value for land, per condo unit (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$135,000 <sup>6</sup>	

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<sup>3</sup> There are no zones that allow multifamily housing as a permitted use in which there are undeveloped parcels that meet the minimum lot size standards for their zoning districts or those that are "under-sized" but are contiguous with "undeveloped" parcels that, as a group of contiguous undeveloped parcels, meet the minimum lot size standards. Since there are zero acres of undeveloped land in the Village, fact sheet points d through h are also zero or not applicable.

<sup>4</sup> After applying a factor of 80 percent to account for site configuration, setbacks, building form restrictions, and the like.

<sup>5</sup> Data provided by the County was rounded to the nearest thousand.

<sup>6</sup> Data provided by the County was rounded to the nearest five thousand.

k. Order-of-magnitude total cost of development, per condo unit (Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	\$375,000 <sup>7</sup>
l. Percent minority population	
2000 Census (1.5% Black, 3.8% Hispanic)	5%
2010 Census (1.9% Black, 6.2% Hispanic) (Ex. K, Racial Composition Table, Village of Irvington – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	8%
m. Percent minority population in the zoning district permitting multifamily housing as-of-right (MF)	
2000 Census (0.9% Black, 1.5% Hispanic)	2%
2010 Census (1.2% Black, 7.0% Hispanic) (Ex. K, Racial Composition Table, Village of Irvington – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	8%
n. Municipal status under the Settlement based on percent minority population <sup>8</sup>	
2000 Census	Section 7(a)
2010 Census	Section 7(a)
(Ex. K, Racial Composition Table, Village of Irvington – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	
o. Westchester County 80% area median income (AMI)	
2000	\$66,500
2010	\$83,800
(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)	

<sup>7</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in Irvington are in the second quartile of the 31 eligible municipalities, total development costs in Irvington are likely to be higher than the \$375,000 average. The spread, however, between housing prices and development costs is still likely to be considerable.

<sup>8</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point l of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point l of this data sheet are likely higher than they would be for the purposes of determining eligibility.

p. Number of families at or below 80% area median income (AMI)<sup>9</sup>

2000	383	21.1%
2007-2011	449	24.2%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income

2000	\$120,895
2007-2011	\$159,125

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark

152 units

2015 Allocation

156 units

Number of units created since 2000

4 units

(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

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<sup>9</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## VILLAGE OF LARCHMONT

The Village of Larchmont's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> There is reason to be concerned that after the financial and political incentives provided by the Settlement are removed, the Village's zoning ordinance will not accommodate new affordable housing opportunities. The limited opportunities are due, at least in part, to restrictive practices on multifamily housing present in the Village's zoning code. The zoning code allows multifamily apartment buildings and townhouses in some areas but with limitations that constrain their development as a practical matter. VILLAGE OF LARCHMONT CODE §§ 381-21.A(5), 381-25.A(7), 381-26.A(7), 381-39.C. Alternatives to multifamily housing as a source of affordable housing, including accessory and cottage-style housing, are not listed as permitted uses as-of-right or by special permit in any district. VILLAGE OF LARCHMONT CODE Ch. 381, Art. IV. The Village's zoning code also provides no mandates, such as mandatory set-asides for new multifamily development, or incentives for affordable housing.

To date, there is little or no evidence that the Village has taken steps to reform its zoning code or otherwise develop affordable housing. Larchmont has not adopted the provisions of the County model zoning ordinance for affordable housing. Although the County has indicated that Larchmont has been considering the provisions of the County model zoning ordinance since at least December 31, 2011, it is unclear from the County's quarterly reports what progress has been made since that date. Ex. M, *Westchester County 2011 4Q Report*, at 18 (submitted Feb. 2, 2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).

The Village has nonetheless made considerable progress towards satisfying the most recent and best available estimate of its share of regional affordable housing need, in large part due to a 46-unit development under construction as part of the County's obligation to build at least 750 units of affordable housing under the Settlement. The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") estimated Larchmont's fair share of regional affordable housing need at approximately 100 affordable housing units, of which roughly half have been built or approved. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Village's success in providing for its fair share of regional need for affordable housing.

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

The County has identified potential development sites that theoretically can accommodate all of the remaining units, but practical restraints make this less likely. See Ex. E, Village of Larchmont Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). In sum, the Village's zoning code poses impediments to the Village meeting the most recent and best available estimate of its share of regional affordable housing need.

### **Model Zoning and County Benchmark**

- The Village has not adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, VILLAGE OF LARCHMONT CODE Ch. 381; Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- According to Westchester County's 2013 First Quarter Report, the Village has placed the model ordinance provisions under consideration. Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan originally called for 105 affordable housing units in Larchmont, of which roughly half (51 units) have been built or approved since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). Most (46) of the units will be in one approved, but still unbuilt, development at 2101-2105 Palmer Avenue. See Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013).
- A 149-unit development on Byron Place that would contain 10 affordable housing units also appears to be under construction. See Ex. O, *Westchester County 2013 2Q Report*, at App'x I-1, 2Q 2013 AFFH Sites Progress List (submitted July 19, 2013).

### **Zoning Ordinance**

- Multifamily apartments and townhouses, as well as two-family homes, are allowed as-of-right, subject to supplementary standards, in one residential and two commercial districts, the Multifamily (MF), Retail Business (RB) and Retail Center (RC) districts. VILLAGE OF LARCHMONT CODE §§ 381-21.A(5), 381-25.A(7), 381-26.A(7); Ex. I, Village of Larchmont Zoning Analysis, at 3, Eighth Zoning Submission, dated July 23, 2013. Townhouse and two-family home developments are permitted by special permit in one additional residential district (R-7.5). VILLAGE OF LARCHMONT CODE § 381-19.C(2); Ex. I, Village of Larchmont Zoning Analysis, at 3, Eighth Zoning Submission, dated July 23, 2013.
- Accessory apartments are not listed as a permitted use as-of-right or by special permit in any district. VILLAGE OF LARCHMONT CODE Ch. 381, Art. IV.

### **Restrictive Practices**

- Multifamily buildings cannot be larger than 20 units in size or taller than 2.5 stories. VILLAGE OF LARCHMONT CODE § 381-39.C; Schedule of Dimensional Regulations, VILLAGE OF LARCHMONT CODE § 381 Attachment 2; Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). These two restrictions could forestall economies of scale without hard-to-assemble large sites. They also make a number of existing residential buildings nonconforming, and thus may result in the need for variances or other discretionary approvals.

- Townhouses are restricted to sites of six or more acres, and there are no available sites of that size. VILLAGE OF LARCHMONT CODE § 381-51.B(1)(a).
- There can be no more than two bedrooms per townhouse dwelling, constraining the ability to accommodate larger families. VILLAGE OF LARCHMONT CODE § 381-51.B(1)(b).
- No single-family house can be smaller than 1,000 square feet outside of the multifamily districts, and 1,400 square feet in most of the Village. Schedule of Dimensional Regulations, VILLAGE OF LARCHMONT CODE § 381 Attachment 2. These square footages prohibit cottage-style housing.
- Accessory housing is not listed as a permitted use as-of-right or by special permit in any district, and thus does not appear to be permitted anywhere in Larchmont. Zoning, VILLAGE OF LARCHMONT CODE Ch 381.

### **Incentives and Mandates**

- There are no mandates or incentives for affordable housing. Zoning, VILLAGE OF LARCHMONT CODE Ch. 381.

### **Zoning Map, Development Pattern and Development Potential**

- There are seven areas in zoning districts that permit multifamily housing as-of-right. Ex. E, Village of Larchmont Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). These areas cover 10 percent of the Village. *Id.*; *id.* at Methodology II-B Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).
- These seven areas contain 14 identified development sites, which can accommodate a total of 53 housing units. Ex. E, Village of Larchmont Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). The sites average a fifth of an acre and cover about two acres in total, meaning that townhouse development would be prohibited on all of them. *Id.* at Village of Larchmont Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012).
- Five of the 14 identified development sites are located in an area that appears to be dominated by industrial uses. *Id.* at Village of Larchmont Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). The potential for soil contamination in this area is high, and environmental remediation would increase the cost of redevelopment significantly. (It should be noted, however, that the approved affordable housing development on Palmer Avenue is currently undergoing environmental remediation, indicating that such remediation may be possible under certain circumstances.) See Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013).
- The three zoning districts that permit multifamily development and contain available sites already have relatively high percentages of minority residents. Ex. K, Racial Composition Table, Village of Larchmont – 2000 & 2010 Census Data (submitted Aug. 15, 2012). Approximately one-third of the estimated housing units that can be accommodated on available sites would be in the RC and MF districts, which as of the 2000 Census had existing populations that were 13 and 12 percent minority respectively, compared with 5 percent in the Village as a whole. Ex. E, Village of Larchmont Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. K, Racial Composition Table, Village of Larchmont – 2000 & 2010 Census Data (submitted Aug. 15, 2012). As of the 2010 Census,



the RB, RC and MF districts had minority populations of 21, 27 and 13 percent, respectively, compared with 8 percent in the Village as a whole. Ex. K, Racial Composition Table, Village of Larchmont – 2000 & 2010 Census Data (submitted Aug. 15, 2012). Therefore, to the extent the construction of affordable housing is meant to increase racially integrated housing patterns, building affordable housing in existing multifamily zones could serve to increase racial segregation within the Village.

- At the right densities, housing values are sufficient to induce multifamily development and mixed-income housing without incentives. Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012).
- Currently 1.03 percent of the residential acreage is occupied by multifamily housing (defined for this purpose as apartment, townhouse or quadraplex development). Two- and three-family housing occupy another 0.81 percent. Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010.

### **Master Plan**

- The master plan dates to 1966 with an update in 1987. It has not been provided in hard copy by the County or the municipality and is not available through other means. Accordingly, it has not been reviewed in connection with this report.

### **Race, Ethnicity and Socioeconomic Information**

- Larchmont's Black population increased from 0.7 percent of the Village's total population in 2000 to 1.5 percent in 2010, and the Hispanic population increased from 4.5 percent to 6.3 percent of the Village's total population. Ex. K, Racial Composition Table, Village of Larchmont – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 5 percent of the Village's population to 8 percent. *Id.*
- The Village of Larchmont's status under section 7(a) of the Settlement has not changed.<sup>2</sup>
- In districts that allow multifamily housing as-of-right, the combined number of Black and Hispanic population increased from 12 percent in 2000 to 23 percent in 2010. *Id.*
- The Village's median family income rose from \$163,965 in 1999, as reported in the 2000 census, to \$214,795 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. See *Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*. Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income increased from \$229,811 to \$232,953. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

- The estimated percentage of the Village’s families earning no more than 80 percent of Westchester County’s Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – increased from about 16.6 percent as of the 2000 census to about 19.4 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

## Implications

- The Village of Larchmont’s zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.
- The Affordable Housing Allocation Plan produced in 2005 by the HOC estimates for just over 100 affordable housing units in Larchmont, of which roughly half have been built or approved. The Village has thus made considerable progress.
- Another 149-unit development on Byron Place that would contain 10 affordable housing units also appears to be under construction.
- Although the current zoning regime provides the theoretical opportunity to develop the remaining 53 affordable units needed to meet the 2005 Affordable Housing Allocation Plan benchmark, practical impediments may make that number of affordable units difficult to achieve. In addition, the Village would likely need hundreds of units to meet the most recent and best available estimate of its share of regional affordable housing need through mandatory set-asides (e.g., 530 units under a 90 percent market-rate / 10 percent affordable format, which represents the minimum affordable housing component under the County’s model zoning ordinance).<sup>3</sup>
- The available development sites in as-of-right multifamily districts are small, either too small to accommodate mixed-income development or too small to allow economies of scale that would make affordable housing development financially viable.
- The lack of incentives or mandates decreases the likelihood that any new multifamily units will be affordable. This would change if the Village moves ahead with consideration and adoption of the provisions of the County’s model affordable housing ordinance.
- At the right densities, housing values are sufficient to induce multifamily development and mixed-income housing without incentives. The very high value of apartments and condo units in the Village should even be sufficient to promote 80/20 mixed-income housing (which is more aggressive than the 90/10 mix that represents the maximum permitted ratio of market-rate to affordable units under the County’s model zoning ordinance). The 80/20 ratio would provide less

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<sup>3</sup> Although the Village can theoretically accommodate 53 units of new housing on available land, that number may be an overestimate because some of the identified development sites may actually be inappropriate for affordable housing. The five lots located along the northern edge of the Village are in an area that appears to be dominated by industrial uses. The potential for soil contamination in this area is high, and environmental remediation would increase the cost of redevelopment exponentially, possibly making affordable housing development unrealistic (although most of the 51 affordable housing units for which the Village has been credited will be built on a contaminated site that is now undergoing environmental remediation).

- development pressure than 90/10 mixed-income housing, and unlike 90/10 developments, would be eligible for federal tax incentives.
- Additional actions will likely be needed for the Village to meet its affordable housing obligation under the Settlement. These might include, in some combination, mapping additional areas for multifamily housing, providing mandates and zoning incentives for affordable housing, permitting accessory housing units (especially if affordable accessory units are listed on a Countywide registry of affordable units), and providing opportunities for additional types of low-density development (such as cottage-style housing or quadraplexes).

## LARCHMONT DATA SHEET

a. Total acreage of the Village (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	687 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	66.3 acres	9.7%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	2.3 acres	0.3%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes	2.3 acres	0.3%
RB	1.55 acres	
RC	0.63 acres	
MF	0.14 acres	
(Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))		
e. Order-of-magnitude area available for development	1.9 acres <sup>4</sup>	0.3%
RB	1.24 acres	
RC	0.50 acres	
MF	0.11 acres	
(Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))		
f. Number of sites available for development (See Ex. E, Village of Larchmont Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	14 sites	
g. Average size of sites (See Ex. E, Village of Larchmont Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0.2 acres	
h. Theoretical number of multifamily units that can be developed as-of-right	53 units	
RB	35 units	
RC	14 units	
MF	4 units	
(See Ex. E, Village of Larchmont Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))		
i. Average selling price for multifamily (condo) units (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$630,000 <sup>5</sup>	
j. Order-of-magnitude value for land, per condo unit (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$189,000 <sup>6</sup>	

<sup>4</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>5</sup> Data provided by the County was rounded to the nearest thousand.

<sup>6</sup> Only data for new developments was used, and was rounded to the nearest five thousand.

k. Order-of-magnitude total cost of development, \$375,000<sup>7</sup>  
per condo unit  
(Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))

l. Percent minority population  
2000 Census (0.7% Black, 4.5% Hispanic) 5%  
  
2010 Census (1.5% Black, 6.3% Hispanic) 8%  
(Ex. K, Racial Composition Table, Village of Larchmont – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

m. Percent minority population in the zoning districts  
permitting multifamily housing  
2000 Census (2.2% Black, 10.0% Hispanic) 12%<sup>8</sup>  
RB 0.4% Black, 5.4% Hispanic 6%  
RC 2.6% Black, 10.6% Hispanic 13%  
MF 1.5% Black, 10.2% Hispanic 12%  
  
2010 Census (6.5% Black, 16.9% Hispanic) 23%<sup>9</sup>  
RB 4.0% Black, 17.3% Hispanic 21%  
RC 8.3% Black, 19.0 % Hispanic 27%  
MF 3.1% Black, 10.0% Hispanic 13%  
(Ex. K, Racial Composition Table, Village of Larchmont – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

n. Municipal status under the Settlement based on percent minority population<sup>10</sup>  
2000 Census Section 7(a)  
2010 Census Section 7(a)  
(Ex. K, Racial Composition Table, Village of Larchmont – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)  
2000 \$66,500  
2010 \$83,800  
(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)

<sup>7</sup> Only data for new developments was used, and was rounded to the nearest five thousand.

<sup>8</sup> Weighted average of the RB, RC and MF districts.

<sup>9</sup> Weighted average of the RB, RC and MF districts.

<sup>10</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point l of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point l of this data sheet are likely higher than they would be for the purposes of determining eligibility.

p. Number of families at or below 80% area median income (AMI)<sup>11</sup>

2000	286	16.6%
2007-2011	302	19.4%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income

2000	\$163,965
2007-2011	\$214,795

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark 54 units

2015 Allocation 105 units

Number of units created since 2000 51 units

(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

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<sup>11</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## TOWN OF LEWISBORO

The Town of Lewisboro's current zoning code does not appear to provide meaningful opportunities for the development of affordable housing to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> The limited opportunities are due, at least in part, to restrictive practices on multifamily housing present in the Town's zoning code.<sup>2</sup> Multifamily housing is restricted to one zoning district, comprising less than one percent of the town's total acreage, in which a single development site has been identified as available for as-of-right development; the site can accommodate only about 18 housing units given restrictions in the zoning code. Ex. F, Town of Lewisboro Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Ex. E, Town of Lewisboro, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). Alternatives to multifamily housing as a source of affordable housing are also restricted: accessory apartments are not allowed as-of-right, though they are allowed by special permit with the express purpose of expanding housing options for middle-income families. The Town's zoning code further restricts accessory apartments to families of four people or less. Ex. F, Town of Lewisboro Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF LEWISBORO CODE § 220-40. The Town's zoning code has no mandates for affordable housing, such as mandatory affordable housing set-asides in new multifamily developments. The code does, however, provide incentives for "middle income" housing, but is only applicable to one almost completely built-out zoning district. Ex. F, Town of Lewisboro Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF LEWISBORO CODE § 220-26.B.

To date, there is little or no evidence of the Town's efforts to reform its zoning code or otherwise develop affordable housing. Lewisboro has not adopted the provisions of the County model zoning ordinance for affordable housing. Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, TOWN OF LEWISBORO CODE Ch. 220 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013). Although the County has indicated that Lewisboro has been considering the provisions of the County model zoning ordinance since at least December 31, 2011, it is unclear from the County's quarterly reports what progress has been made since that date. Ex. M, *Westchester County 2011 4Q Report*, at 18 (submitted Feb. 2, 2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). Despite being given multiple opportunities to respond to a survey conducted by the County Planning Department, the Town has not reported the construction of any affordable housing units since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

<sup>2</sup> The Town has indicated that due to its location within the watershed of the New York City water supply system, any higher density development would be difficult. Ex. H, Town of Lewisboro Response Letter from Peter H. Parsons, Supervisor, at 1-2, dated June 18, 2013.

Lewisboro's zoning restrictions on as-of-right development of multifamily housing and alternatives, such as accessory apartments, as sources of affordable housing may also inhibit its ability to meet the most recent and best available estimate of its share of regional affordable housing need. The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") estimated Lewisboro's fair share of regional need at more than 200 affordable housing units. *Id.* The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Town's success in providing for its most recent and best available estimate of its share of regional affordable housing need.

### **Model Zoning and County Benchmark**

- The Town has not adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, TOWN OF LEWISBORO CODE Ch. 220; Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).
- According to Westchester County's 2013 First Quarter Report, the Town has shared with the County Department of Planning draft zoning amendments that would incorporate the model ordinance provisions. Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan originally estimated for roughly 240 affordable housing units in Lewisboro, but there is no indication that any affordable housing units have been built or approved since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

### **Zoning Ordinance**

- Multifamily development is permitted as-of-right in one of the Town's 13 zoning districts, the R-MF district. Ex. F, Town of Lewisboro, *Review and Analysis of Municipal Zoning Ordinances in Westchester County*, at 45 (submitted Feb. 29, 2012); *id.* at Town of Lewisboro Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF LEWISBORO CODE §§ 220-23, 220-24.
- Mixed-use development (i.e., residences above stores) is permitted as-of-right in two commercial districts. Ex. F, Town of Lewisboro Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012).
- Two-family dwellings are permitted as-of-right in two residential districts. *Id.*
- Accessory apartments are not permitted as-of-right anywhere in Lewisboro. *Id.* They are allowed by special permit on single-family lots of a minimum size of one-half acre. *Id.* An accessory apartment is defined as "a dwelling unit which is incidental and subordinate to a permitted principal one-family use and located on the same lot therewith, where either unit is occupied by the owner of the premises." TOWN OF LEWISBORO CODE § 220-2.
- Accessory residence dwellings are also not permitted as-of-right. Ex. F, Town of Lewisboro Table, *Review and Analysis of Municipal Zoning Ordinances in*



*Westchester County* (submitted Feb. 29, 2012). They are allowed by special permit on lots of at least 20 acres. TOWN OF LEWISBORO CODE § 220-40.1.A. An *accessory residence dwelling* is defined as “a dwelling unit which is incidental and subordinate to a permitted principal one-family residence and located on the same lot therewith, where the principal unit is occupied by the owner of the premises. An accessory residence dwelling shall not be considered an accessory apartment as defined herein.” TOWN OF LEWISBORO CODE § 220-2.

### **Restrictive Practices**

- In the R-MF district, the only district where multifamily housing is permitted, the minimum lot size for developments served by Lewisboro public water and sewer infrastructure is 15,000 square feet. Schedule of Dimensional and Bulk Regulations for Residential Districts, TOWN OF LEWISBORO CODE § 220 Attachment 1 (Jan. 15, 2012). If a development will not be served by public water and sewer, the minimum lot size is 15 acres. *Id.* This strongly encourages smaller infill developments by putting a heavy burden on developers who wish to develop outside of the water and sewer district.
- Density restrictions and bulk requirements restrict the likelihood that multifamily units will be developed in the R-MF district. The maximum permitted density is two density units per acre. TOWN OF LEWISBORO CODE § 220-26.B(1).
- Accessory apartments cannot contain more than two bedrooms or four occupants. Ex. F, Town of Lewisboro Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012).

### **Incentives and Mandates**

- There is no mandate for affordable housing. *Id.*; Zoning, TOWN OF LEWISBORO CODE Ch. 220.
- In the R-MF Multifamily Residence District, density may be increased by up to 40 percent if the applicant builds at least one-third of the additional density as middle-income units. TOWN OF LEWISBORO CODE § 220-26.B. A *middle income family* is defined as a family whose aggregate income does not exceed a multiple of the median annual Town-paid wages of a full-time employee, depending on family size. TOWN OF LEWISBORO CODE § 220-2.
- Middle-income units built in the R-MF district must be integrated into the design of the development and must be distributed among efficiency, one-, two-, three- or four-bedroom units in the same proportion as market-rate units. TOWN OF LEWISBORO CODE § 220-26.F.

### **Zoning Map, Development Pattern and Development Potential**

- Four areas in the Town within the R-MF zone permit multifamily housing as-of-right, cumulatively containing less than one percent of the Town’s area, and three of the four areas are entirely built out. Ex. E, Town of Lewisboro, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-B Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).
- One of the four areas contains a single development site, of 4.5 acres, which could accommodate 18 dwelling units as-of-right.<sup>3</sup> *Id.* at Town of Lewisboro,

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<sup>3</sup> Contrary to the data provided by the County, the owner of this property, Brian Stein, has indicated that the site is 7.08 acres, not 4.5 acres, and has an entitlement of 78 units. Ex. P,

Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-B Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-D(2) Table August 2012 (submitted Sep. 6, 2012).

- Only 0.25 percent of the area within the Town occupied by residential use is occupied by multifamily residences (defined for this purpose as apartments, townhouses and quadraplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. An additional 0.4 percent is occupied by two- and three-family residences. *Id.*
- The Town is located within the watershed of the New York City water supply system, and is thus subject to the *Rules and Regulations for the Protection of the New York City Water Supply and Its Sources* (more commonly known as the *Watershed Rules and Regulations*). See *Priority Areas for New York City Land Acquisition & Stewardship Program* (1997), available at <http://www.ecolibary.org/page/DP4507>. This consideration places considerable constraints on the density and location of housing development in the Town. See Ex. I, Town of Lewisboro Zoning Analysis, at 5, Eighth Zoning Submission, dated July 23, 2013.
- At a value of roughly \$294,000 per apartment or condo unit, and an average development cost of \$375,000 per unit for condos in the County, affordable housing development, even in mixed-income developments, might be limited even with less restrictive zoning, absent subsidies. Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012).

### **Master Plan**

- The most recent comprehensive plan, completed in 1985, states that “further expansion of multifamily housing opportunities based on regional needs is not imperative.” *Town of Lewisboro Master Plan*, at 69, adopted May 24, 1985. The plan cites progress made in developing approximately 500 multifamily units between 1974 and 1984, 45 of which were “middle income” units, despite recommending across-the-board lowering of residential density levels. *Id.* at 68.

### **Race, Ethnicity and Socioeconomic Information**

- Lewisboro’s Black population remained largely the same with 1.2 percent of the Town’s total population in 2000 and 1.3 percent in 2010. Ex. K, Racial Composition Table, Town of Lewisboro – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The Hispanic population increased from 2.5 percent to 4.4 percent of the Town’s population. *Id.* The combined Black and Hispanic population increased from 4 percent of the Town’s population to 7 percent. *Id.*
- Despite this increase, the Town of Lewisboro’s status under section 7(a) of the Settlement has not changed.<sup>4</sup>

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Email from Brian Stein to James E. Johnson, dated June 20, 2013. Mr. Stein has also indicated that he has had difficulty engaging a developer for the site due to Lewisboro’s zoning code. *Id.*

<sup>4</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality’s eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

- In districts that allow multifamily housing as-of-right, the combined number of Black and Hispanic population increased from 4 percent in 2000 to 6 percent in 2010. *Id.*
- The Town's median family income rose from \$129,473 in 1999, as reported in the 2000 census, to \$182,656 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income increased from \$181,467 to \$198,097. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Town's families earning no more than 80 percent of Westchester County's Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – increased from about 17.6 percent as of the 2000 census to about 21.4 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

## Implications

- The Town of Lewisboro's current zoning code does not appear to provide meaningful opportunities for the development of affordable housing to meet the most recent and best available estimate of its share of regional affordable housing need.
- The opportunity for new multifamily housing is quite limited. Less than one percent of the Town is located within a zone that permits such housing, in which only one site has been identified as available for potential multifamily development. Although this site is of substantial size (4.5 acres), strict density requirements would result in only 18 multifamily units by the County's estimation.
- The absence of mandates for affordable housing decreases the likelihood that any new residential units will be affordable.
- At a value of under \$300,000 per apartment or condo unit, and an average cost of \$375,000 per unit for multifamily and condo development in the County, further affordable housing development, even in mixed-income developments, may be limited even with less restrictive zoning. It appears that subsidies, such as those available from the County under the Settlement, would likely be needed even for future mixed-income development.
- Accessory housing is not permitted as-of-right anywhere in the Town, and the special permit for such housing restricts accessory apartments to a maximum of four persons, thus excluding larger families.
- There is no indication that any affordable housing units have been built or approved in Lewisboro since 2000.
- Additional actions will be needed for the Town's zoning code to provide viable opportunities for affordable housing. Considerable creativity will need to be employed with any strategy involving new housing development in Lewisboro, due to the constraints imposed by its location within the watershed of the New York City water supply system, compounded by soil and drainage conditions in some locations. Some solutions may emerge should the City of New York and

State make or agree to infrastructure improvements to address septic and package plant failures in one or another area. In the absence of such action, solutions might involve the development of affordable housing in locations where sewage is not an issue, such as housing above stores in hamlet centers, or low-density development models, such as allowing two-family housing with one affordable unit instead of a similarly sized single-family home. Even if environmental conditions seem to forestall higher density affordable housing development for the time being, so that density bonuses are not currently feasible, a form of the model zoning ordinance could still be adopted, providing a mandate to ensure an affordable housing component in any development (no matter what the density) of ten or more housing units and providing other incentives, such as waiver of fees and expedited review.

## LEWISBORO DATA SHEET

a. Total acreage of the Town (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	18,648 acres <sup>5</sup>	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	142.7 acres	0.8%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	5.6 acres	0.03%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes (Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))	5.6 acres	0.03%
e. Order-of-magnitude area available for development <sup>6</sup> (Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))	4.5 acres	0.02%
f. Number of sites available for development (See Ex. E, Town of Lewisboro Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	1 site	
g. Average size of sites (See Ex. E, Town of Lewisboro Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	4.5 acres	
h. Theoretical number of multifamily units that can be developed as-of-right (See Ex. E, Town of Lewisboro Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	18 units	
i. Average selling price for multifamily (condo) units <sup>7</sup> (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$295,000	
j. Order-of-magnitude value for land, per condo unit <sup>8</sup> (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$60,000	

<sup>5</sup> The Town of Lewisboro, at 1, Eighth Zoning Submission (submitted July 23, 2013) gives the Town's land area as 18,661 acres. See Ex. I. The difference between the two numbers is insignificant and would not be sufficient to change any of the percentages in b through e.

<sup>6</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>7</sup> Data provided by the County was rounded to the nearest thousand.

<sup>8</sup> Data provided by the County was rounded to the nearest five thousand.

k. Order-of-magnitude total cost of development, per condo unit <sup>9</sup> (Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	\$375,000
l. Percent minority population	
2000 Census (1.2% Black, 2.5% Hispanic)	4%
2010 Census (1.3% Black, 4.4% Hispanic) (Ex. K, Racial Composition Table, Town of Lewisboro – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	6%
m. Percent minority population in the zoning district permitting multifamily housing as-of-right (R-MF)	
2000 Census (0.9% Black, 3.0% Hispanic)	4%
2010 Census (2.2% Black, 5.2% Hispanic) (Ex. K, Racial Composition Table, Town of Lewisboro – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	7%
n. Municipal status under the Settlement based on percent minority population <sup>10</sup>	
2000 Census	Section 7(a)
2010 Census	Section 7(a)
(Ex. K, Racial Composition Table, Town of Lewisboro – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	
o. Westchester County 80% area median income (AMI)	
2000	\$66,500
2010	\$83,800
(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)	

<sup>9</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in Lewisboro are in the third quartile of the 31 eligible municipalities, total development costs in Lewisboro are likely to be lower than the \$375,000 average.

<sup>10</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point l of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point l of this data sheet are likely higher than they would be for the purposes of determining eligibility.

p. Number of families at or below 80% area median income (AMI) <sup>11</sup>		
2000	611	17.6%
2007-2011	743	21.4%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income	
2000	\$129,473
2007-2011	\$182,656

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark	239 units
2015 Allocation	239 units
Number of units created since 2000	0 units

(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

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<sup>11</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## TOWN OF MAMARONECK

The Town of Mamaroneck's current zoning code does not appear to provide meaningful opportunities for the development of affordable housing to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> The limited opportunities are due, at least in part, to the limited area zoned for as-of-right multifamily development. Under the current zoning regime, only 1.7 percent of the Town's acreage is zoned for as-of-right multifamily zoning and there were no undeveloped sites identified in these areas. Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). The only affordable housing mandate requires that a minimum of only one out of every 17 units be affordable, and it applies only to one zoning district in the Town. Ex. F, Town of Mamaroneck Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF MAMARONECK CODE § 240-25.E(2)(c). The Town provides no incentives for affordable housing. Ex. F, Town of Mamaroneck Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); *see also* Zoning, TOWN OF MAMARONECK CODE Ch. 240. Alternatives to multifamily housing as a source of affordable housing are also restricted: accessory apartments do not appear to be permitted, unless they are for domestic employees in single-family zoning districts. Ex. F, Town of Mamaroneck, *Review and Analysis of Municipal Zoning Ordinances in Westchester County*, at 47 (submitted Feb. 29, 2012); *id.* at Town of Mamaroneck Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012).

To date, there is little evidence that the Town has taken steps to reform its zoning code or otherwise develop affordable housing. Mamaroneck has not adopted the provisions of the County's model zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, TOWN OF MAMARONECK CODE Ch. 240 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013). The County has indicated that Mamaroneck has been considering the provisions of the County model zoning ordinance since at least December 31, 2011. Ex. M, *Westchester County 2011 4Q Report*, at 18 (submitted Feb. 2, 2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). According to the Town's website, there will be a public hearing in September 2013 to consider amending its zoning code, which may include the adoption of the model ordinance provisions. *7/25/2013 - Public Hearing Announcement*, News & Notices, Town of Mamaroneck, available at <http://www.townofmamaroneck.org>.

Mamaroneck's zoning restrictions on as-of-right development of multifamily housing and alternatives for producing multifamily housing may also inhibit its ability to meet the most recent and best available estimate of its share of regional affordable housing need. The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") estimated Mamaroneck's fair share of regional need at 125 affordable housing units. *Id.* The Town has asserted that 10 units of affordable

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).



housing were approved in 2006 as part of a larger multifamily development, and are currently under construction. Ex. H, Town of Mamaroneck Response Letter from Town Supervisor Nancy Seligson, at 3, dated May 16, 2013. However, the Town has made scant progress towards satisfying its fair share of the regional need for affordable housing. *Id.*; Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Town's success in providing for its most recent and best available estimate of its share of regional affordable housing need.

### **Model Zoning and County Benchmark**

- The Town has not adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, TOWN OF MAMARONECK CODE Ch. 240; Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).
- According to Westchester County's 2013 First Quarter Report, the Town has shared with the County Department of Planning draft zoning amendments that would incorporate the model ordinance provisions. Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013). According to the Town's website, there will be a public hearing in September 2013 to consider amending its zoning code, which may include the adoption of the model ordinance provisions. *7/25/2013 - Public Hearing Announcement*, News & Notices, Town of Mamaroneck, *available at* <http://www.townofmamaroneck.org>.
- The HOC's 2005 Affordable Housing Allocation Plan originally estimated for 125 affordable housing units in Mamaroneck, of which the Town has only approved 10 units since 2000, which are currently under construction. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. H, Town of Mamaroneck Response Letter from Town Supervisor Nancy Seligson, at 3, dated May 16, 2013.

### **Zoning Ordinance**

- Multifamily development is permitted as-of-right in four out of the Town's 17 zoning districts. Ex. F, Town of Mamaroneck, *Review and Analysis of Municipal Zoning Ordinances in Westchester County*, at 47 (submitted Feb. 29, 2012); *id.* at Town of Mamaroneck Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012).
- Mixed-use development (i.e., residences above stores) is permitted as-of-right in two zoning districts. *Id.* at Town of Mamaroneck Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). New, larger mixed-use developments that may include multifamily housing are allowed by special permit in one of the two districts, the Business-Mixed Use (B-MUB) district. TOWN OF MAMARONECK CODE § 240-25.E.

- Two-family dwellings are permitted as-of-right in one zoning district. *Id.* at Town of Mamaroneck Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF MAMARONECK CODE § 240-23.A.
- The Town reports that it is considering an amendment to its zoning ordinance that would permit both multifamily and mixed-use developments in its business and service business zones, with a requirement that 10 percent of the units be affordable. Ex. H, Town of Mamaroneck Response Letter from Town Supervisor Nancy Seligson, at 2, dated May 16, 2013.

### **Restrictive Practices**

- Multifamily housing in the B-MUB district is limited to one 3-bedroom unit for every 25 dwelling units. Ex. F, Town of Mamaroneck Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). The minimum lot size in this district is 80,000 square feet. *Id.*
- Accessory apartments are prohibited, with the exception of accessory buildings or trailers for domestic employees in single-family zoning districts. *Id.*
- An affordable multifamily development in the Urban Renewal (UR) district may have no more than an average of two bedrooms per unit, and no unit may have more than three bedrooms. TOWN OF MAMARONECK CODE § 240-48.1.C(3).

### **Incentives and Mandates**

- The B-MUB district requires that one of every 17 dwelling units must be workforce housing. Ex. F, Town of Mamaroneck Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF MAMARONECK CODE § 240-25.E(2)(c). *Workforce housing units* shall mean dwelling units occupied permanently by individuals or families whose household incomes do not exceed 80 percent of the Westchester County area median income. TOWN OF MAMARONECK CODE § 240-25.E(2)(c)
- There are currently no other mandates and no incentives for affordable housing development. Ex. F, Town of Mamaroneck Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); *see also* Zoning, TOWN OF MAMARONECK CODE Ch. 240.
- The Town reports that it is considering an amendment to its zoning ordinance that would permit both multifamily and mixed-use developments in its business and service business zones, with a requirement that 10 percent of the units be affordable. Ex. H, Town of Mamaroneck Response Letter from Town Supervisor Nancy Seligson, at 2, dated May 16, 2013.

### **Zoning Map, Development Pattern and Development Potential**

- Five areas, cumulatively containing 2 percent of the Town's land area, are zoned for multifamily housing development as-of-right. Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012). These areas are all fully built out; however, no available development sites have been identified. *Id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012).
- Only 2.7 percent of the residential land area in the Town is occupied by multifamily housing (defined for this purpose as apartments, townhouses and quadrplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality,

*Land Use in Westchester*, at 17, 2010. An additional 1.5 percent is occupied by two- and three-family housing. *Id.*

- If the Town adopts a proposed zoning amendment to permit multifamily housing and mixed-use development in its business and service business zones, the Town’s planning consultants estimate that approximately 300 housing units could be built. Ex. H, Town of Mamaroneck Response Letter from Town Supervisor Nancy Seligson, at 2, dated May 16, 2013.

### **Master Plan**

- The Town of Mamaroneck’s master plan has not been reviewed for this report. It has not been provided in hard copy by either the County or the municipality and is not available through any public sources.

### **Race, Ethnicity and Socioeconomic Characteristics**

- Mamaroneck’s Black population remained largely the same with 2 percent of the Town’s population in 2000 and 1.9 percent in 2010, but the Hispanic population increased from 4.6 percent to 6.6 percent of the Town’s total population. Ex. K, Racial Composition Table, Town of Mamaroneck – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 7 percent of the Town’s population to 9 percent. *Id.*
- The Town of Mamaroneck’s status under section 7(a) of the Settlement has not changed.<sup>2</sup>
- In districts that allow multifamily housing as-of-right, the combined Black and Hispanic population increased slightly from 16 percent in 2000 to 17 percent in 2010. *Id.*
- The Town’s median family income rose from \$75,093 in 1999, as reported in the 2000 census, to \$99,519 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income increased from \$105,249 to \$107,932. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Town’s families earning no more than 80 percent of Westchester County’s Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – decreased from about 43.1 percent as of the 2000 census to about 39.5 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality’s eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

## **Implications**

- The Town of Mamaroneck’s current zoning code does not appear to provide meaningful opportunities for the development of affordable housing.
- No available development sites exist within any zoning district that permits multifamily housing as-of-right, and accessory apartments are prohibited.
- At the right densities, housing values are sufficient to induce multifamily development and mixed-income housing without incentives.
- Additional actions will be needed for the Town to make meaningful progress towards meeting its affordable housing obligation under the Settlement. These might include, in some combination, adopting the County’s model affordable housing ordinance provisions, mapping additional areas for multifamily housing, providing broader and more intensive mandates for affordable housing, permitting accessory housing units, and providing opportunities for additional types of low-density development (such as cottage-style housing or quadraplexes). Accessory housing options, though currently not allowed in the Town, would take advantage of the embedded investment in property (e.g., an individual property owner adding a unit to their house or an accessory structure (such as an existing or “faux” garage), with no added cost for site preparation, site acquisition, etc.), especially if such units were listed on a Countywide registry of affordable units, which could be created and maintained by the County.
- The Town reports that it is considering a zoning amendment to expand the number of districts in which multifamily housing and mixed-use development could occur as-of-right, and the Town’s planning consultants’ estimate that as many as 300 housing units could be built as a result. Should such an amendment be approved, and it could in fact produce 300 housing units, it would significantly improve the Town’s opportunities for developing affordable housing.

## MAMARONECK DATA SHEET

a. Total acreage of the Town (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	2,315 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	39.7 acres	1.7%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	0 acres	0%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes (Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012) – Mamaroneck not listed)	0 acres	0%
e. Order-of-magnitude area available for development <sup>3</sup> (Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012) – Mamaroneck not listed)	0 acres	0%
f. Number of sites available for development	0 sites	
g. Average size of sites (Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012) – Mamaroneck not listed)	N/A	
h. Theoretical number of multifamily units that can be developed as-of-right (Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012) – Mamaroneck not listed)	0 units	
i. Average selling price for multifamily (condo) units <sup>4</sup> (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$465,000	
j. Order-of-magnitude value for land, per condo unit <sup>5</sup> (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$115,000	
k. Order-of-magnitude total cost of development, per condo unit <sup>6</sup> (Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	\$375,000	

<sup>3</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>4</sup> Data provided by the County was rounded to the nearest five thousand.

<sup>5</sup> Data provided by the County was rounded to the nearest five thousand.

<sup>6</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not adjust for variation in local land cost. Since land costs in Mamaroneck are in the highest quartile of the 31 eligible municipalities, total development costs in Mamaroneck are likely to be higher than the \$375,000 average. The spread, however, between housing prices and development costs is still likely to be considerable.

I. Percent minority population

2000 Census	(2.0% Black, 4.6% Hispanic)	7%
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2010 Census	(1.9% Black, 6.6% Hispanic)	9%
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(Ex. K, Racial Composition Table, Town of Mamaroneck – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

m. Percent minority population in the zoning districts permitting multifamily as-of-right

2000 Census	(4.7% Black, 11.3% Hispanic)	16% <sup>7</sup>
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R-A	5.2% Black, 10.0% Hispanic	15%
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R-GA	6.0% Black, 16.0% Hispanic	22%
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R-TA	2.0% Black, 4.0% Hispanic	6%
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UR	6.7% Black, 1.1% Hispanic	8%
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2010 Census	(5.4% Black, 11.9% Hispanic)	17% <sup>8</sup>
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R-A	6.4% Black, 18.6% Hispanic	25%
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R-GA	15.4% Black, 21.6% Hispanic	37%
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R-TA	2.4% Black, 7.7% Hispanic	10%
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UR	5.2% Black, 17.7% Hispanic	23%
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(Ex. K, Racial Composition Table, Town of Mamaroneck – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

n. Municipal status under the Settlement based on percent minority population<sup>9</sup>

2000 Census	Section 7(a)
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2010 Census	Section 7(a)
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(Ex. K, Racial Composition Table, Town of Mamaroneck – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)

2000	\$66,500
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2010	\$83,800
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(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)

<sup>7</sup> Weighted average of the R-A, R-GA, R-TA and UR districts.

<sup>8</sup> Weighted average of the R-A, R-GA, R-TA and UR districts.

<sup>9</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

p. Number of families at or below 80% area median income (AMI) <sup>10</sup>	
2000	2,129 43.1%
2007-2011	1,835 39.5%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income	
2000	\$75,093
2007-2011	\$99,519

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015	
Allocation Plan benchmark	115 units
2015 Allocation	125 units
Number of units created since 2000	10 units

(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. H, Town of Mamaroneck Response Letter from Town Supervisor Nancy Seligson, at 3, dated May 16, 2013.)

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<sup>10</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## TOWN OF MOUNT PLEASANT

The Town of Mount Pleasant's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Town to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> Multifamily housing is allowed as-of-right in parts of the Town, but these areas are largely built out; the County has been able to identify locations for only five new housing units in these districts. Ex. E, Town of Mount Pleasant Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). Alternatives to multifamily housing as a source of affordable housing are also restricted: accessory apartments are not allowed, either as-of-right or by special permit, unless they are for the exclusive use of domestic servants employed by the principal residents. Schedules of Regulations, TOWN OF MOUNT PLEASANT CODE § 218 Attachments 1-17. The Town's zoning ordinance does not mandate affordable housing. See Zoning, TOWN OF MOUNT PLEASANT CODE Ch. 218. Density bonuses are provided for applicants developing affordable housing in certain zoning districts, though *affordable housing* is not clearly defined. TOWN OF MOUNT PLEASANT CODE § 218-76.G, 218-3.

To date, there is little or no evidence that the Town has taken steps to reform its zoning code or otherwise develop affordable housing. Mount Pleasant has not adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, TOWN OF MOUNT PLEASANT CODE Ch. 218 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). Although the County has indicated that Mount Pleasant has been considering the provisions of the County model zoning ordinance since at least December 31, 2011, it is unclear from the County's quarterly reports what progress has been made since that date. Ex. M, *Westchester County 2011 4Q Report*, at 18 (submitted Feb. 2, 2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). Despite being given multiple opportunities to respond to a survey conducted by the County Planning Department, the Town has not reported the construction of any affordable housing units since 2000. See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

Mount Pleasant's zoning restrictions on as-of-right development of multifamily housing and alternatives for producing affordable housing may also inhibit its ability to meet the most recent and best available estimate of its share of regional affordable housing need. The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") estimated the Town's fair share of regional need at almost 1,000 affordable housing units. *Id.* The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).



Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Town's success in providing for the most recent and best available estimate of its share of regional affordable housing need.

Additional actions will be needed for the Town to make meaningful progress towards meeting any affordable housing needs, let alone the best available estimate of its share of the regional affordable housing need. These might include, in some combination, adopting the County's model affordable housing ordinance provisions (which the Town is considering), mapping additional areas for multifamily housing, providing mandates and broader incentives for affordable housing, permitting accessory housing units, and providing opportunities for additional types of low-density development (such as cottage-style housing or quadraplexes). Even with such reform, development of multifamily housing will still prove problematic due to moderate values, unless significant financial incentives are provided.

### **Model Zoning and County Benchmark**

- The Town has not adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, TOWN OF MOUNT PLEASANT CODE Ch. 218; Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- According to Westchester County's 2013 First Quarter Report, the Town has placed the model ordinance provisions under consideration. Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan estimated the Town's fair share of regional affordable housing need at 975 units in Mount Pleasant. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). Despite being given multiple opportunities to respond to a survey conducted by the County Planning Department, the Town has not reported the construction of any affordable housing units since 2000. *Id.*

### **Zoning Ordinance**

- Multifamily housing (generally defined in this report as developments including three or more housing units) is permitted as-of-right in 9 of the Town's 13 residential districts (R-3A, R-3AU, R-5A, PRD-T-1, PRD-T-2, PRD-T-5, PRD-T-7, PRD-T-8 and PRDH-T-1). Schedules of Regulations, TOWN OF MOUNT PLEASANT CODE § 218 Attachments 1-17. One business district (OB4) also allows multifamily housing, although it restricts such housing (and all residential uses) to sites that exceed 100 acres. *Id.*; TOWN OF MOUNT PLEASANT CODE § 218-71. The OB4 district has not been mapped anywhere in the Town, however. Ex. E, Town of Mount Pleasant Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). The conversion of existing buildings into multifamily housing is permitted by special permit in three additional zoning districts. Schedules of Regulations, TOWN OF MOUNT PLEASANT CODE § 218 Attachments 1-17.
- Two-family dwellings are permitted as-of-right in one additional district. *Id.*
- Unless they are for the exclusive use of domestic servants, accessory apartments are not permitted anywhere in the Town. *Id.*
- In the R-3AU district, a school building converted to dwelling units may provide apartments for seniors over 62 or families with members less than 29 years of

age, so long as the entire development averages 750 square feet per dwelling unit. TOWN OF MOUNT PLEASANT CODE § 218-67. (That is not a minimum or a maximum square footage, but the prescribed average.) Those units shall be set aside for residents or parents or children of residents on the basis of “economic or social need” (the criteria for which are to be set by the Town Board). *Id.* These apartments will cost 75 percent of fair market value or 50 percent of the average sales price of other units in the building, whichever is higher. *Id.*

### **Restrictive Practices**

- Accessory apartments are not permitted anywhere in the Town, either as-of-right or by special permit, unless they are for the exclusive use of domestic servants employed by the principal residents. Schedules of Regulations, TOWN OF MOUNT PLEASANT CODE § 218 Attachments 1-17.
- Transitional districts (six of which permit multifamily housing) restrict the number of bedrooms per unit in a development to an average of two, with no more than three and no less than one bedroom. TOWN OF MOUNT PLEASANT CODE § 218-76.F. *See also* Schedules of Regulations, TOWN OF MOUNT PLEASANT CODE § 218 Attachments 1-17.

### **Incentives and Mandates**

- Except for the maximum costs established for certain units in a single specified project, the residential conversion of a former school, the Town has established no mandate for affordable housing. TOWN OF MOUNT PLEASANT CODE § 218-67. Even in the case of the school conversion project, there is not actually a mandate for a set number or ratio of affordable units; the zoning ordinance states that units in the building may be set aside for seniors or those under 29 years of age who are either Town residents or their parents or children and that any such units must be sold at specified below-market prices. TOWN OF MOUNT PLEASANT CODE § 218-67.A(4).
- The only incentive for affordable housing applies to the six Planned Residential Development - Transitional (PRD-T) districts, five of which allow multifamily housing. TOWN OF MOUNT PLEASANT CODE § 218-76.G. The PRD-T districts permit a density bonus of up to one-third beyond the basic permitted density if the applicant provides affordable housing. *Id.* There is no guidance regarding whether all or some percentage of the units must be affordable for the development to qualify for the bonus, nor are there any provisions regarding the location or quality of the affordable units. *Id.* The definition of *affordable housing* does not relate to income, price or rent restrictions, but is as follows: “a dwelling unit containing no more than 800 square feet of floor area.” TOWN OF MOUNT PLEASANT CODE § 218-3.

### **Zoning Map, Development Pattern and Development Potential**

- There are ten areas zoned for as-of-right multifamily development, containing 7 percent of the Town’s area. Ex. E, Town of Mount Pleasant Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). These areas are heavily built out, however, with available lots containing less than one acre in total. Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012).
- The only available development sites in these areas that meet minimum lot size requirements could accommodate a total of five housing units. *Id.* at Town of

Mount Pleasant Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).

- Only 1.2 percent of the total residential area in the Town is occupied by multifamily housing (defined for this purpose as apartment, townhouse, or quadraplex development). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. An additional 1.5 percent is occupied by two- and three-family housing. *Id.*

### **Master Plan**

- The most recent comprehensive plan dates to 1970, completed by Frederick P. Clark Associates. *Town of Mount Pleasant 1970 Comprehensive Master Plan*, adopted August 1970.
- The plan calls for development of apartments in the C-GC and C-NR districts, with several restrictions: No more than 225 apartments may be built in any one hamlet; no more than 100 apartments may be built in any one development; the maximum density permitted is 50 apartments per acre; and apartments are limited to efficiency, one- and two-bedroom units. *Id.* at 41-42.

### **Race, Ethnicity and Socioeconomic Characteristics**

- Mount Pleasant's Black population remained largely the same with 5.7 percent of the Town's total population in 2000 and 5.5 percent in 2010, but the Hispanic population increased from 5.2 percent to 18 percent of the Town's population. Ex. K, Racial Composition Table, Town of Mount Pleasant – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 11 percent of the Town's population to 24 percent. *Id.*
- Due to this increase, the Town of Mount Pleasant's status under section 7(b) of the Settlement has changed and the Town should be considered ineligible.<sup>2</sup>
- In districts that allow multifamily housing as-of-right, the combined Black and Hispanic population rose from 30 percent in 2000 to 31 percent in 2010. *Id.*
- The Town's median family income rose from \$94,239 in 1999, as reported in the 2000 census, to \$124,720 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. See *Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*. Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income increased from \$132,084 to \$135,263. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Town's families earning no more than 80 percent of Westchester County's Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – increased from about 32.3 percent as of the 2000 census to about 34 percent as of the 2007-2011 American Community Survey. See *Profile of Selected Economic*

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

*Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

### **Implications**

- The Town of Mount Pleasant's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Town to meet the most recent and best available estimate of its share of regional affordable housing need.
- According to the County's analysis, the portions of the Town zoned for multifamily housing contain available sites that could accommodate only five new housing units. Even if all were affordable, that would satisfy less than one percent of the Town's share of the regional affordable housing need, as estimated by the HOC.
- The Town does not provide mandatory set-asides for new multifamily development. Zoning incentives are provided for affordable housing development, but only in a handful of districts that do not appear to contain available development sites.
- The estimated average selling price for multifamily (condo) units in the Town is \$385,000, which is only slightly higher than the \$375,000 average development cost for a condo unit in Westchester. Zoning bonuses might not be sufficient; subsidies, such as those available under the Settlement, might be required even for affordable units in mixed-income developments to foster future development.
- Additional actions will be needed for the Town to make meaningful progress towards meeting the most recent and best available estimate of its share of regional affordable housing need. These might include, in some combination, adopting the provisions of the County's model affordable housing ordinance (which the Town is reportedly considering), mapping additional areas for multifamily housing, providing mandates and broader incentives for affordable housing, permitting accessory housing units, and providing opportunities for additional types of low-density development (such as cottage-style housing or quadraplexes).

## MOUNT PLEASANT DATA SHEET

a. Total acreage of the Town (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	15,392 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	1,014.8 acres	6.6%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	8.4 acres	0.1%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes	6.5 acres	0.04%
R-3A	0.59 acres	
PRDT-8	0.04 acres	
C-GC	0.37 acres	
C-NR	5.53 acres	
(Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))		
e. Order-of-magnitude area available for development	5.2 acres <sup>3</sup>	0.03%
R-3A	0.47 acres	
PRDT-8	0.03 acres	
C-GC	0.30 acres	
C-NR	4.43 acres	
(Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))		
f. Number of sites available for development (See Ex. E, Town of Mount Pleasant Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	56 sites <sup>4</sup>	
g. Average size of sites (See Ex. E, Town of Mount Pleasant Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0.01 acres	
h. Theoretical number of multifamily units that can be developed as-of-right	5 units	
R-3A	5 units	
PRDT-8	0 units	
C-GC	0 units	
C-NR	0 units	
(See Ex. E, Town of Mount Pleasant Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))		

<sup>3</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>4</sup> Most of these sites are too small to be viable.

i. Average selling price for multifamily (condo) units (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$385,000 <sup>5</sup>
j. Order-of-magnitude value for land, per condo unit (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$95,000 <sup>6</sup>
k. Order-of-magnitude total cost of development, per condo unit (Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	\$375,000 <sup>7</sup>
l. Percent minority population	
2000 Census (5.7% Black, 5.2% Hispanic)	11%
2010 Census (5.5% Black, 18.0% Hispanic)	24%
(Ex. K, Racial Composition Table, Town of Mount Pleasant – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	
m. Percent minority population in the mapped zoning districts permitting multifamily housing as-of-right	
2000 Census (20.4% Black, 9.4% Hispanic)	30% <sup>8</sup>
R-3A 0% Black, 10.0% Hispanic	10%
R-3AU	NA <sup>9</sup>
R-5A 0.6% Black, 3.3% Hispanic	4%
PRD-T-1	NA <sup>10</sup>
PRD-T-2 0.7% Black, 0.5% Hispanic	1%
PRD-T-5 8.5% Black, 5.9% Hispanic	14%
PRD-T-7 1.7% Black, 15.9% Hispanic	18%
PRD-T-8	NA <sup>11</sup>
PRDH-T-1	NA <sup>12</sup>
C-GC 0.4% Black, 19.5% Hispanic	20%
C-NR 1.1% Black, 7.0% Hispanic	8%
C-PS 3.3% Black, 3.9% Hispanic	7%
OB1 0.7% Black, 2.4% Hispanic	3%
OB2 50.7% Black, 12.8% Hispanic	64%
OB3 3.1% Black, 17.1% Hispanic	20%

<sup>5</sup> Data provided by the County was rounded to the nearest thousand.

<sup>6</sup> Data provided by the County was rounded to the nearest five thousand.

<sup>7</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in Mount Pleasant are in the second quartile of the 31 eligible municipalities, total development costs in Mount Pleasant are likely to be higher than the \$375,000 average.

<sup>8</sup> Weighted average of the R-3A, R-5A, PRD-T-2, PRD-T-5 and PRD-T-7 districts.

<sup>9</sup> When the total population in a district is 10 or less, the Census Bureau does not report the Black and Hispanic populations.

<sup>10</sup> When the total population in a district is 10 or less, the Census Bureau does not report the Black and Hispanic populations.

<sup>11</sup> When the total population in a district is 10 or less, the Census Bureau does not report the Black and Hispanic populations.

<sup>12</sup> When the total population in a district is 10 or less, the Census Bureau does not report the Black and Hispanic populations.

OB5	47.1% Black, 11.9% Hispanic	59%
OB6	44.9% Black, 11.9% Hispanic	57%
OB-T-3	27.5% Black, 4.1% Hispanic	32%
2010 Census	(21.7% Black, 9.5% Hispanic)	31% <sup>13</sup>
R-3A	0% Black, 10.0% Hispanic	10%
R-3AU		NA <sup>14</sup>
R-5A	0.6% Black, 3.3% Hispanic	4%
PRD-T-1		NA <sup>15</sup>
PRD-T-2	0.7% Black, 0.5% Hispanic	1%
PRD-T-5	8.5% Black, 5.9% Hispanic	14%
PRD-T-7	1.7% Black, 15.9% Hispanic	18%
PRD-T-8		NA <sup>16</sup>
PRDH-T-1		NA <sup>17</sup>
C-GC	0.4% Black, 19.5% Hispanic	20%
C-NR	1.1% Black, 7.0% Hispanic	8%
C-PS	3.3% Black, 3.9% Hispanic	7%
OB1	0.7% Black, 2.4% Hispanic	3%
OB2	50.7% Black, 12.8% Hispanic	64%
OB3	3.1% Black, 17.1% Hispanic	20%
OB5	47.1% Black, 11.9% Hispanic	59%
OB6	44.9% Black, 11.9% Hispanic	57%
OB-T-3	27.5% Black, 4.1% Hispanic	32%

(Ex. K, Racial Composition Table, Town of Mount Pleasant – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

n. Municipal status under the Settlement based on percent minority population<sup>18</sup>

2000 Census

Section 7(b)

2010 Census

Ineligible

(Ex. K, Racial Composition Table, Town of Mount Pleasant – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

<sup>13</sup> Weighted average of the R-3A, R-5A, PRD-T-2, PRD-T-5 and PRD-T-7 districts.

<sup>14</sup> When the total population in a district is 10 or less, the Census Bureau does not report the Black and Hispanic populations.

<sup>15</sup> When the total population in a district is 10 or less, the Census Bureau does not report the Black and Hispanic populations.

<sup>16</sup> When the total population in a district is 10 or less, the Census Bureau does not report the Black and Hispanic populations.

<sup>17</sup> When the total population in a district is 10 or less, the Census Bureau does not report the Black and Hispanic populations.

<sup>18</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

o. Westchester County 80% area median income (AMI)

2000	\$66,500
2010	\$83,800

(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)

p. Number of families at or below 80% area median income (AMI)<sup>19</sup>

2000	2,952	32.3%
2007-2011	2,887	34.0%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income<sup>20</sup>

2000	\$94,239
2007-2011	\$124,720

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015

975 units

Allocation Plan benchmark

2015 Allocation

975 units

Number of units created since 2000

0 units

(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

<sup>19</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

<sup>20</sup> Mount Pleasant contains part of Briarcliff Manor and Pleasantville, but these municipalities are excluded from Mount Pleasant's data calculations because they are discussed individually in a separate section of this report. However, the Census does not calculate median income for the subsection of Mount Pleasant that excludes Briarcliff Manor and Pleasantville. These data approximate the median incomes for the remainder of Mount Pleasant by taking the weighted average of the median income in the remaining areas. The median incomes for 2000 and 2007-2011 are derived by multiplying each subsection of Mount Pleasant's median income by its population, adding all of these figures together, and then dividing that sum by the total population in all of these subsections.



## TOWN OF NEW CASTLE

The Town of New Castle's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Town to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> The opportunities for affordable housing are diminished, at least in part, by the limited area zoned for as-of-right multifamily housing development. Three districts allow multifamily housing development as-of-right, but development opportunities in these districts are limited.<sup>2</sup> See Ex. F, Town of New Castle, *Review and Analysis of Municipal Zoning Ordinances in Westchester County*, at 57 (submitted Feb. 29, 2012); *id.* at Town of New Castle Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Ex. E, Town of New Castle Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). A variety of other housing types are permitted, including two-family dwellings, residences above stores and accessory apartments, though the last are allowed only by special permit. See Ex. F, Town of New Castle Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). Accessory apartments are not permitted as-of-right but are allowed by special permit in eight zoning districts. *Id.*

The Town has made progress in reforming its zoning code. New Castle has adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; TOWN OF NEW CASTLE CODE § 60-220 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).

Expanding the areas zoned for as-of-right multifamily housing development and loosening restrictions on alternative sources of affordable housing, such as accessory apartments and townhouses, would further increase the Town's ability to meet regional need for affordable housing. The 2005 Affordable Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC"), estimated the Town's share of regional affordable housing need at 255 units. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). According to a survey conducted by the County, since 2000 only three affordable housing units have been developed in New Castle, another 20-unit development is seeking approvals as part of the pending Chappaqua Crossing development, and a different developer is seeking approvals for another 28 affordable units. *Id.*; Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013). The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. Ex. C, Table, Status of Allocation per Affordable Housing

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

<sup>2</sup> It should be noted that due to its location within the watershed of the New York City water supply system, any higher density development would be difficult.

Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Town's success in providing for the most recent and best available estimate of its share of regional affordable housing need.

### **Model Zoning and County Benchmark**

- The Town has adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; TOWN OF NEW CASTLE CODE § 60-220; Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan estimated the Town's share of regional affordable housing need at 255 affordable housing units in New Castle, of which only 3 units have been built or approved since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013).
- A developer is seeking approvals as part of the pending Chappaqua Crossing development, which will include 20 affordable units. See Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013). Another developer is seeking approvals for a proposed 28-unit affordable housing development on Hunts Place. *Id.* If these developments are approved and built, New Castle will have provided 51 affordable housing units. Compare *id.*, with Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

### **Zoning Ordinance**

- Multifamily development is permitted as-of-right in six of the 16 zoning districts (the Multifamily Residence – Chappaqua (MFR-C) district, the Multifamily Residence – Millwood (MFR-M) district, the Multifamily Planned Development (MFPD) floating district, the Designed Business (B-D) district, the Retail Business (B-R) district and the Retail Business and Parking (B-RP) district). See Ex. F, Town of New Castle, *Review and Analysis of Municipal Zoning Ordinances in Westchester County*, at 57 (submitted Feb. 29, 2012); *id.* at Town of New Castle Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012).<sup>3</sup> It is allowed by special permit in nine

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<sup>3</sup> There is some confusion about which zoning districts were identified by the County Planning Department as allowing multifamily housing as-of-right. In its Feb. 29, 2012, analysis of the zoning ordinances of Westchester municipalities, it identifies only the MFR-C, MFR-M and MFPD districts as allowing the use "as of right," but it identifies the B-D, B-R, B-RP and I-G districts as allowing multifamily housing upon site plan review rather than as a special use., and the Planning Department has identified potential multifamily housing development sites in the B-D and B-R districts. Ex. F, Town of New Castle Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). The acreage figure that the Planning Department has provided for districts allowing multifamily housing as-of-right does not appear, however, to include the I-G district, and a review of the zoning ordinance clearly indicates that residential use is allowed in

additional zoning districts. *Id.* at Town of New Castle Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012).

- Three multifamily districts (MFR-C, MFR-M and MFPD) contain mandates and/or incentives for affordable housing in the manner of the model affordable housing ordinance. *Id.*
- Mandates and incentives are also provided for lower density housing development. *Id.*
- Mixed-use development (i.e., residences above stores) is permitted as-of-right in nine zoning districts. *Id.*
- The single-family home districts permit two-family homes if and only if they are “Model Ordinance Provisions Affordable AFFH units.” TOWN OF NEW CASTLE CODE § 60-410A; Schedule of regulations for business and industrial districts, TOWN OF NEW CASTLE CODE § 60 Attachment 4 (July 1, 2012).
- Accessory apartments are not permitted as-of-right but are allowed by special permit in eight zoning districts. Ex. F, Town of New Castle Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012).
- The Town has provisions for workforce housing, which is available by special permit in three districts (B-R, B-RP and I-G), none of which allow multifamily housing as-of-right. *Id.* “Workforce housing” consists of housing units whose occupancy is restricted, for a period of at least 25 years, to households whose annual income does not exceed the highest of (1) the adjusted mean annual salary of Town employees, (2) the adjusted mean annual salary of employees of the public school district in which the housing is located, or (3) Westchester’s adjusted Annual Median Income (AMI). TOWN OF NEW CASTLE CODE § 60-210. Workforce housing is allowed in mixed-use developments if all residential units qualify as workforce housing. TOWN OF NEW CASTLE CODE § 60-430.O(15).

### **Restrictive Practices**

- The minimum lot area for multifamily developments ranges from one to five acres, although these requirements may be reduced for affordable housing units. Lot and Bulk Regulations, TOWN OF NEW CASTLE CODE § 60 Attachment 3 (July 1, 2012).
- The regulations regarding workforce housing units specify that no workforce units may be built within a tenth of a mile of five other workforce units and that such units have a maximum unit size of two bedrooms. TOWN OF NEW CASTLE CODE § 60-430.O(15).

### **Incentives and Mandates**

- Within the MFR-C, MFR-M and MFPD districts, within any multifamily development of ten or more units, at least 10 percent must be affordable, and within any multifamily development of five to nine units, at least one unit must be affordable. TOWN OF NEW CASTLE CODE §§ 410.H(2)(a)(3), 410.H(3).
- Within subdivisions of ten or more building lots, affordable units must occupy at least 10 percent of the lots. TOWN OF NEW CASTLE CODE § 113-23F. Within

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the I-G district only by special permit. Schedule of regulations for business and industrial districts, TOWN OF NEW CASTLE CODE § 60 Attachment 4 (July 1, 2012).

subdivisions of eight or nine building lots, an affordable unit must occupy at least one lot. *Id.*

- For affordable single-family homes, the usually applicable minimum lot size is reduced by 25 percent. TOWN OF NEW CASTLE CODE § 60-220.E(1)(a).
- In a single-family home district, a two-family home including an AFFH unit may occupy a lot meeting the specified minimum lot size for a single-family home. TOWN OF NEW CASTLE CODE § 60-220.E(1)(b).
- Density bonuses of up to 100 percent beyond the basic permitted density may be awarded in the MFR-C district in exchange for the development of special features or facilities, including affordable AFFH units. TOWN OF NEW CASTLE CODE § 60-410.H(2)(a)(2). Such density bonuses are at the discretion of the Planning Board, however, and are awarded by special permit. *Id.* The MFPD district is a floating zone that may be mapped upon a developer's application. TOWN OF NEW CASTLE CODE § 60-410.H(4). Density bonuses may be considered in an MFPD district, but the ordinance is silent about the purposes for which they may be awarded. TOWN OF NEW CASTLE CODE § 60-410.H(4)(b)(4). The ordinance states merely that the granting of such incentives, and the amount by which density is increased, "shall be determined by the agency responsible for the approval of the preliminary development concept plan." *Id.*
- Expedited subdivision project review procedures are applicable to applications that include Model Ordinance Provisions affordable units. TOWN OF NEW CASTLE CODE § 113-10E.

### **Zoning Map, Development Pattern and Development Potential**

- Eleven areas in the Town are zoned for districts that allow multifamily housing as-of-right, covering 2 percent of the Town's area. Ex. E, Town of New Castle, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-B Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).
- The 11 areas contain 11 available development sites, averaging half an acre in size. *Id.* at Town of New Castle, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). In total, the sites can accommodate 32 housing units as-of-right. *Id.* at Town of New Castle, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).
- These potential sites do not include the location where a developer is currently seeking approvals for a 28-unit affordable housing development. Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013).
- Approximately 3.6 percent of the area within the Town that is occupied by residential uses is occupied by multifamily housing (defined for this purpose as apartments, townhouses and quadrplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. An additional 1.7 percent is occupied by two- and three-family housing. *Id.*
- The Town is located within the watershed of the New York City water supply system, and is thus subject to the *Rules and Regulations for the Protection of the New York City Water Supply and Its Sources* (more commonly known as the *Watershed Rules and Regulations*). See *Priority Areas for New York City Land Acquisition & Stewardship Program* (1997), available at

<http://www.ecolibary.org/page/DP4507>. This consideration places considerable constraints on the density and location of housing development in the Town.

### **Master Plan**

- The Town’s 1989 master plan recommends the continuation of 1980s efforts to provide less expensive alternatives to single-family detached homes, including “townhouse developments, accessory apartments in single-family homes and apartments in business districts, either alone or in combination with nonresidential uses.” *Town Development Plan*, at 127, November 1989.
- The plan specifically recommends that multifamily housing development in combination with commercial development be permitted in the Chappaqua and Millwood hamlet centers. *Id.* at 103.
- The plan also recommends a new option for providing less costly housing: to permit the conversion of single-family homes to two-family homes in specific areas within or contiguous to the two hamlets. *Id.* at 128. The plan recommends that density incentives be considered for proposals that include, among other features, “low/moderate income housing.” *Id.* at 124.

### **Race, Ethnicity and Socioeconomic Characteristics**

- New Castle’s Black population largely remained the same with 1.4 percent of the Town’s population in 2000 and 1.6 percent in 2010, but the Hispanic population increased from 2.8 percent to 4 percent of the Town’s total population. Ex. K, Racial Composition Table, Town of New Castle – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 4 percent of the Town’s population to 6 percent. *Id.*
- Despite this increase, the Town of New Castle’s status under section 7(a) under the Settlement has not changed.<sup>4</sup>
- In districts that allow multifamily housing as-of-right, the combined Black and Hispanic population rose from 8 percent in 2000 to 11 percent in 2010. *Id.*
- The Town’s median family income rose from \$174,579 in 1999, as reported in the 2000 census, to \$205,109 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income declined from \$244,687 to \$222,448. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Town’s families earning no more than 80 percent of Westchester County’s Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – increased from about 13.8 percent as of the 2000 census to about 14.3 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic*

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<sup>4</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality’s eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

*Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

### **Implications**

- The Town of New Castle’s zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Town to meet its estimated share of regional affordable housing need.
- The Town has adopted the provisions of the model affordable housing zoning ordinance.
- Only 3 units of affordable housing have been built or approved in the Town since 2000.
- A developer is seeking approvals for 20 units within the pending Chappaqua Crossing mixed-income development. Another developer is seeking approvals for a 28-unit affordable housing development.
- The County Department of Planning has identified 11 other potential development sites in districts that allow multifamily housing as-of-right, which in total could accommodate 32 housing units under usually applicable density regulations, or more if discretionary density bonuses are awarded.
- At the right densities, housing values are sufficient to induce multifamily development and mixed-income housing without incentives. The very high value of apartments and condo units in the Town might be sufficient to promote 80/20 mixed-income housing, which would require less redevelopment than the 90/10 mixed-income development that represents the minimum affordable housing component under the Town’s zoning ordinance, and which, unlike 90/10 development, would qualify for federal tax incentives.
- Additional actions will be needed for the Town’s zoning code to provide viable opportunities for affordable housing. Considerable creativity will need to be employed with any strategy involving new housing development in New Castle, due to the constraints imposed by its location within the watershed of the New York City water supply system, compounded by soil and drainage conditions in some locations. Some solutions may emerge should the City of New York and State make or agree to infrastructure improvements to address septic and package plant failures in one or another area. In the absence of such action, solutions might involve the development of affordable housing in locations where sewage is not an issue, such as housing above stores in hamlet centers, or low-density development models, such as allowing two-family housing with one affordable unit instead of a similarly sized single-family home. Even if environmental conditions seem to forestall higher density affordable housing development for the time being, so that density bonuses are not currently feasible, the Town’s choice to adopt the model zoning ordinance should be able to aid in achieving future affordable development.

## NEW CASTLE DATA SHEET

a. Total acreage of the Town (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	14,999 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	303.6 acres	2.0%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	10.4 acres	0.1%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes	6.3 acres	0.04%
MFR-M	0.59 acres	
B-D	0.72 acres	
B-R	1.52 acres	
MFPD	3.45 acres	
(Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))		
e. Order-of-magnitude area available for development <sup>5</sup>	5.0 acres	0.03%
MFR-M	0.48 acres	
B-D	0.57 acres	
B-R	1.22 acres	
MFPD	2.76 acres	
(Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))		
f. Number of sites available for development (See Ex. E, Town of New Castle Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	11 sites	
g. Average size of sites (See Ex. E, Town of New Castle Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0.46 acres	
h. Theoretical number of multifamily units that can be developed as-of-right	32 units	
MFR-M	3 units	
B-D	3 units	
B-R	8 units	
MFPD	18 units	
(See Ex. E, Town of New Castle Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))		
i. Average selling price for multifamily (condo) units <sup>6</sup> (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$555,000	

<sup>5</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>6</sup> Data provided by the County was rounded to the nearest thousand.

j. Order-of-magnitude value for land, per condo unit<sup>7</sup> \$165,000  
(Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))

k. Order-of-magnitude total cost of development, \$375,000  
per condo unit<sup>8</sup>  
(Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))

l. Percent minority population  
2000 Census (1.4% Black, 2.8% Hispanic) 4%  
  
2010 Census (1.6% Black, 4.0% Hispanic) 6%  
(Ex. K, Racial Composition Table, Town of New Castle – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

m. Percent minority population in the zoning districts  
permitting multifamily housing as-of-right

2000 Census	(2.5% Black, 5.4% Hispanic)	8% <sup>9</sup>
MFR-C	0.3% Black, 0.7% Hispanic	1%
MFR-M	3.9% Black, 4.8% Hispanic	8%
B-D	0.7% Black, 0.8% Hispanic	2%
B-R	2.6% Black, 6.5% Hispanic	9%
B-RP	9.6% Black; 14.8% Hispanic	24%
MFPD	1.6% Black, 4.3% Hispanic	6%
2010 Census	(3.6% Black, 7.7% Hispanic)	11% <sup>10</sup>
MFR-C	1.0% Black, 2.9% Hispanic	4%
MFR-M	5.3% Black, 7.5% Hispanic	13%
B-D	0.0% Black, 2.0% Hispanic	2%
B-R	5.0% Black, 12.5% Hispanic	18%
B-RP	10.5% Black; 34.2 Hispanic	45%
MFPD	2.8% Black, 3.2% Hispanic	6%

(Ex. K, Racial Composition Table, Town of New Castle – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

<sup>7</sup> Data provided by the County was rounded to the nearest five thousand.

<sup>8</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in New Castle are in the highest quartile of the 31 eligible municipalities, total development costs in New Castle are likely to be higher than the \$375,000 average. Since land costs were calculated as a percentage of condo unit prices, and are therefore highest in precisely those municipalities in which prices for new housing are highest, the spread between housing prices and development costs likely remains considerable.

<sup>9</sup> Weighted average of the MFR-C, MFR-M, B-D, B-R, B-RP and MFPD districts.

<sup>10</sup> Weighted average of the MFR-C, MFR-M, B-D, B-R, B-RP and MFPD districts.



n. Municipal status under the Settlement based on percent minority population<sup>11</sup>  
 2000 Census Section 7(a)  
 2020 Census Section 7(a)  
 (Ex. K, Racial Composition Table, Town of New Castle – 2000 & 2010 Census Data  
 (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)  
 2000 \$66,500  
 2010 \$83,800  
 (Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban  
 Development)

p. Number of families at or below 80% area median income (AMI)<sup>12</sup>  
 2000 688 13.8%  
 2007-2011 710 14.3%  
 (*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic  
 Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income  
 2000 \$174,579  
 2007-2011 \$205,109  
 (*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic  
 Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark 252 units  
 2015 Allocation 255 units  
 Number of units created since 2000 3 units  
 (See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-  
 2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

<sup>11</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

<sup>12</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## TOWN OF NORTH CASTLE

The Town of North Castle's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Town to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> Multifamily housing and mixed-use developments are permitted as-of-right in parts of the Town, but only 1.9 percent of the Town is zoned for this use. *Id.* In its analysis, the County Department of Planning identified vacant sites that could accommodate a total of 82 new multifamily housing units as-of-right, without demolition and redevelopment, and reportedly the Town has since rezoned an additional vacant site, the Armonk Lumber Yard site, to a district that allows multifamily housing and would require that 35% of the units be middle-income dwelling units. Ex. E, Town of North Castle, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. H, Town of North Castle Response Letter from Supervisor Howard Arden, at 2, dated April 17, 2013. Since 2000, 46 affordable housing units have been built or approved in the Town of North Castle. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). The Town provides some mandates and incentives for middle-income housing, though the definition of *middle-income housing* varies from the definition of *affordable* in the model ordinance. Ex. F, Town of North Castle Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). The mandates and incentives, however, apply only to limited areas. *Id.*

The Town has not adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; TOWN OF NORTH CASTLE CODE Ch. 213 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013). Although the County has indicated that North Castle has been considering the provisions of the County model zoning ordinance since at least December 31, 2011, it is unclear from the County's quarterly reports what progress has been made since that date. Ex. M, *Westchester County 2011 4Q Report*, at 18 (submitted Feb. 2, 2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).

The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") is the most recent and best available estimate of the Town's share of regional affordable housing need and has estimated North Castle's share at more than 700 affordable housing units, of which 46 units have been built or approved. *Id.* The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its most recent Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The

---

<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

allocation plan provides an order-of-magnitude indication of the Town's success in providing for the most recent and best available estimate of the Town's share of regional affordable housing need.

### **Model Zoning and County Benchmark**

- The Town has not adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; TOWN OF NORTH CASTLE CODE Ch. 213; Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).
- According to Westchester County's 2013 First Quarter Report, the Town has shared with the County Department of Planning draft zoning amendments that would incorporate the model ordinance provisions. Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan estimated the Town's share of regional affordable housing need at 712 affordable housing units, of which 46 units have been built or approved. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

### **Zoning Ordinance**

- Multifamily housing is permitted as-of-right in eight of the Town's 30 zoning districts. Ex. F, Town of North Castle Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). Stand-alone multiple housing developments are allowed as-of-right in the R-MF, R-MF-A, R-MF-SS and R-MF-SCH districts, as well as in the PLI district if they consist of assisted living complexes. *Id.* Apartments are allowed as-of-right on the second floor as part of mixed-use developments in the CB, CB-A and RB districts.
- Two-family dwellings are permitted as-of-right in only one zoning district. *Id.*
- Mixed-use development (i.e., residences above stores) is permitted in six zoning districts. *Id.*
- In four zoning districts, one accessory unit is permitted for residential purposes, and additional units may be allowed by special permit. *Id.* Accessory apartments are allowed by special permit in eight other zoning districts. *Id.*; TOWN OF NORTH CASTLE CODE § 213-33.K.
- Mandates are provided for middle-income units in three zoning districts (R-MF-SS, R-MF-SCH and CB-A), and density incentives are provided for middle-income units in two other districts (R-MF and R-MF-A). Ex. F, Town of North Castle Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). All of these districts allow multifamily housing as-of-right. *Id.* *Middle-income units* are defined as those in which rent (excluding utilities) does not exceed 1.8 percent of the maximum aggregate family income for a middle-income family. TOWN OF NORTH CASTLE CODE §§ 213-3, 213-22.I(4)(a). A "middle-income family" is a family whose aggregate income does not exceed a multiple of the median annual salaries of full-time Town employees depending on family size. TOWN OF NORTH CASTLE CODE § 213-3. Preference for middle-income units is given to North Castle residents and municipal employees. TOWN OF NORTH CASTLE CODE § 213-22.I(5)(a).

### **Restrictive Practices**

- In the R-MF district, the maximum density is restricted to one density unit per 25,000 square feet of net lot area. Ex. F, Town of North Castle Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). In the R-MF-A district, the maximum density is restricted to one density unit per 14,000 square feet. *Id.* One density unit is equal to one single-family home, three efficiency units, or some combination of units and bedrooms in between. *Id.*

### **Incentives and Mandates**

- The maximum density in the R-MF district may be increased by up to 45 percent if more than 40 percent of the increase is built as middle-income units. *Id.*
- In the R-MF-A district, the permitted density may be increased by not more than 40 percent if the applicant constructs at least 20 percent of the increase as middle-income dwelling units. *Id.*
- The R-MF district includes requirements for the integration of middle-income units, design standards that provide privacy equal to market-rate units, and design amenities attractive to senior occupants. TOWN OF NORTH CASTLE CODE § 213-21. Resale restrictions ensure that the units will remain middle-income. *Id.*
- At least 15 percent of permitted floor area ratio in the R-MF-SCH district must be set aside for middle-income units for seniors. Ex. F, Town of North Castle Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012).
- At least 35 percent of units in a single structure in the R-MF-SS district must be set aside for middle-income units. *Id.*
- At least 20 percent of units in a single structure in the C-BA district must be set aside for middle-income units. *Id.*

### **Zoning Map, Development Pattern and Development Potential**

- At the time the analysis was performed, nine areas of the Town were located within districts that allow multifamily housing as-of-right, covering 2 percent of the Town's land area. Ex. E, Town of North Castle, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-B Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012). The Town has since reported that an additional site has been rezoned to a district that allows multifamily housing as-of-right. Ex. H, Town of North Castle Response Letter from Supervisor Howard Arden, at 2, April 17, 2013.
- The nine areas contain 18 identified development sites, averaging half an acre in size, which could accommodate a total of 82 housing units as-of-right. Ex. E, Town of North Castle, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).
- None of the 18 development sites are in districts that mandate middle-income housing. *Id.*; Ex. F, Town of North Castle Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). Only three of the housing units could be built in a district that provides incentives for middle-income housing. Ex. E, Town of North Castle, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. F, Town of North Castle

Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012).

- The newly rezoned property, the former Armonk Lumber Yard site, is within a district that requires that at least 35 percent of the units be middle-income. Ex. H, Town of North Castle Response Letter from Supervisor Howard Arden, at 2, Apr. 17, 2013. No estimate has been made of the site's acreage or of the number of units that it could accommodate.
- The average value of a condo unit in North Castle (\$275,000) is lower than the average cost of development of a condo unit in the County (\$375,000). Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012); Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012). At these levels, it appears that the likelihood of new multifamily housing development is reduced, particularly on small sites where economies of scale are not possible, and the likelihood that affordable multifamily units would be built without subsidies is also reduced. Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012); Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012).
- Only 0.04 percent of the land in residential use in the Town is occupied by multifamily housing (defined for this purpose as apartments, townhouses and quadrplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. An additional 1.1 percent is occupied by two- and three-family housing. *Id.*

#### **Master Plan**

- The most recent comprehensive plan was completed in 1996. *Town Comprehensive Plan Update 1996*, Town of North Castle, Westchester County, New York. The plan encourages mixed-use development to provide affordable housing options for small households, and also supports the continued permitting of accessory apartments. *Id.* at IV-6 - IV-7. The plan does suggest exchanging the right to build detached housing in the R-MF district for an increase in middle-income units. *Id.* at IV-7.

#### **Race, Ethnicity and Socioeconomic Characteristics**

- North Castle's Black population stayed largely the same with 1.8 percent of the Town's population in 2000 and 1.6 percent in 2010, but the Hispanic population increased from 4.1 percent to 7.6 percent of the Town's total population. Ex. K, Racial Composition Table, Town of North Castle – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 6 percent of the Town's population to 9 percent. *Id.*
- This increase adjusts the Town of North Castle's status under section 7(a) of the Settlement to section 7(b).<sup>2</sup>
- In districts that allow multifamily housing as-of-right, the combined Black and Hispanic population rose from 7 percent in 2000 to 11 percent in 2010. *Id.*
- The Town's median family income rose from \$141,764 in 1999, as reported in the 2000 census, to \$155,313 during the years 2006 through 2010, as reported in the

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

- 2007-2011 American Community Survey 5-year estimates. See *Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*. Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income declined from \$198,694 to \$168,442. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Town’s families earning no more than 80 percent of Westchester County’s Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – increased from about 20.8 percent as of the 2000 census to about 23.7 percent as of the 2007-2011 American Community Survey. See *Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*.

### Implications

- The Town of North Castle’s zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Town to meet the most recent and best available estimate of its share of regional affordable housing need.
- Under current conditions, the Town has the capacity to produce 82 additional multifamily units, without demolition and redevelopment, plus an unknown number of additional multifamily units at a recently rezoned site.
- Although the Town does provide some mandates and incentives for middle-income housing, the definition of *middle-income* does not conform to that of *affordable* in the model ordinance, so not all middle-income units would necessarily qualify as affordable.
- The mandates and incentives for middle-income housing apply only to a select number of zoning districts.
- The average value of a condo unit in North Castle (\$275,000) is lower than the average cost of development of a condo unit in the County (\$375,000), which may appear to reduce the likelihood of new multifamily housing development, particularly on small sites where economies of scale are not possible, and may reduce the likelihood that affordable multifamily units would be built without subsidies.
- Since 2000, 46 affordable housing units have been built or approved in North Castle.
- Additional actions will be needed for the Town to make meaningful progress towards meeting its share of regional affordable housing need. These might include, in some combination, adopting the County’s model affordable housing ordinance provisions, changing the definition of *middle-income housing* to conform with the definition of *affordable housing* in the model ordinance, increasing the areas in which mandates and incentives for middle-income housing apply, mapping additional areas for multifamily housing, permitting accessory housing units as-of-right, and providing opportunities for additional types of low-density development (such as cottage-style housing or quadraplexes).
- Even with additional Town actions, affordable housing will remain difficult without assistance in the form of financial subsidies and marketing.

## NORTH CASTLE DATA SHEET

a. Total acreage of the Town (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	16,763 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	312.4 acres	1.9%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	10.7 acres	0.1%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes	7.8 acres	0.1%
CB	1.16 acres	
PLI	5.88 acres	
R-MF-A	0.79 acres	
(Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))		
e. Order-of-magnitude area available for development	6.3 acres <sup>3</sup>	0.04%
CB	0.93 acres	
PLI	4.70 acres	
R-MF-A	0.63 acres	
(Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))		
f. Number of sites available for development (See Ex. E, Town of North Castle, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	18 sites	
g. Average size of sites (See Ex. E, Town of North Castle Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0.4 acres	
h. Theoretical number of multifamily units that can be developed as-of-right	82 units	
CB	11 units	
PLI	68 units	
R-MF-A	3 units	
(See Ex. E, Town of North Castle Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))		
i. Average selling price for multifamily (condo) units (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$275,000 <sup>4</sup>	

<sup>3</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>4</sup> Data provided by the County was rounded to the nearest five thousand.

j. Order-of-magnitude value for land, per condo unit (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$55,000 <sup>5</sup>
k. Order-of-magnitude total cost of development, per condo unit (Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	\$375,000 <sup>6</sup>
l. Percent minority population	
2000 Census (1.8% Black, 4.1% Hispanic)	6%
2010 Census (1.6% Black, 7.6% Hispanic) (Ex. K, Racial Composition Table, Town of North Castle – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	9%
m. Percent minority population in the zoning districts permitting multifamily housing as-of-right	
2000 Census (2.5% Black, 4.6% Hispanic)	7% <sup>7</sup>
CB 4.7% Black, 7.0% Hispanic	12%
CB-A	NA <sup>8</sup>
PLI 0.0% Black, 1.9% Hispanic	2%
RB 0.0% Black, 1.6% Hispanic	2%
R-MF 0.0% Black, 1.6% Hispanic	2%
R-MF-A 0% Black, 3.9% Hispanic	4%
R-MF-SCH	NA <sup>9</sup>
R-MF-SS	NA <sup>10</sup>
2010 Census (1.8% Black, 9.0% Hispanic)	11% <sup>11</sup>
CB 5.0% Black, 17.5% Hispanic	23%
CB-A	NA <sup>12</sup>
PLI	NA <sup>13</sup>
RB 0.0% Black, 8.5% Hispanic	9%
R-MF 0.4% Black, 5.3% Hispanic	6%
R-MF-A 0.5% Black, 3.4% Hispanic	4%
R-MF-SCH	NA <sup>14</sup>
R-MF-SS	NA <sup>15</sup>

<sup>5</sup> Data provided by the County was rounded to the nearest five thousand.

<sup>6</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in North Castle are in the third quartile of the 31 eligible municipalities, total development costs in North Castle are likely to be lower than the \$375,000 average.

<sup>7</sup> Weighted average of the CB, PLI, RB, R-MF and R-MF-A districts.

<sup>8</sup> If the total population in the district is ten or less, racial or ethnic composition is not reported.

<sup>9</sup> Data was not reported for this district.

<sup>10</sup> Data was not reported for this district.

<sup>11</sup> Weighted average of the CB, PLI, RB, R-MF and R-MF-A districts.

<sup>12</sup> If the total population in the district is ten or less, racial or ethnic composition is not reported.

<sup>13</sup> Data was not reported for this district.

<sup>14</sup> Data was not reported for this district.

<sup>15</sup> Data was not reported for this district.



(Ex. K, Racial Composition Table, Town of North Castle – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

n. Municipal status under the Settlement based on percent minority population<sup>16</sup>

2000 Census Section 7(a)

2010 Census Section 7(b)

(Ex. K, Racial Composition Table, Town of North Castle – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)

2000 \$66,500

2010 \$83,800

(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)

p. Number of families at or below 80% area median income (AMI)<sup>17</sup>

2000 624 20.8%

2007-2011 743 23.7%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income

2000 \$141,764

2007-2011 \$155,313

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark 666 units

2015 Allocation 712 units

Number of units created since 2000 46 units

(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

<sup>16</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

<sup>17</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## TOWN OF NORTH SALEM

The Town of North Salem's zoning ordinance appears to provide meaningful opportunities for the development of affordable housing sufficient to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> Multifamily development is permitted in some areas, but a minimum lot size of five acres and maximum density of four to six units per acre might prohibit developments from achieving the scale that typically makes multifamily units economically feasible. Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 6, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 7, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 5, Nov. 1, 2011; Table of Use and Density for the R-MF/4 District, TOWN OF NORTH SALEM CODE § 250 Attachment 15, Nov. 1, 2011; Table of Use and Density for the R-MF/6 District, TOWN OF NORTH SALEM CODE § 250 Attachment 14, Nov. 1, 2011. The Town, however, contains several large parcels that are available for new multifamily development, and can accommodate about 300 new multifamily units as-of-right. Ex. E, Town of North Salem Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).

North Salem has also made considerable progress in reforming its zoning code to further accommodate affordable housing. The Town has adopted most provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; TOWN OF NORTH SALEM CODE Ch. 250 Art. XXII (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013). For example, the Town mandates that at least 10 percent, and in some districts at least 20 percent, of the units in new housing developments be affordable, and it provides zoning density incentives for developments that exceed the minimum requirement. TOWN OF NORTH SALEM CODE §§ 250-18.B(2), 250-19.1.

The Town has made excellent progress towards fulfilling the most recent and best available estimate of its share of regional affordable housing need. A total of 74 affordable housing units have been built or approved in North Salem since 2000, 65 of which are being built with the assistance of the County under the Settlement. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013). The 2005 Affordable Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC"), estimated the Town's share of regional affordable housing need at 152 affordable housing units in North Salem, approximately twice the number of units that have been created or approved. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Town's success in providing for the most recent and best available estimate of its share of regional affordable housing need.

### **Model Zoning and County Benchmark**

- The Town has adopted most portions of the model affordable housing zoning ordinance, although there is no provision for expedited review. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; TOWN OF NORTH SALEM CODE Ch. 250 Art. XXII (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan estimated the Town's share of regional affordable housing need at 152 affordable housing units in North Salem, of which almost half (74 units) have been built or approved since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).
- A developer is currently seeking approvals to build 102 units of affordable housing on a site on Route 22. Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013).
- Another developer is seeking approvals to build 2 affordable units on a different site on Route 22. Ex. O, *Westchester County 2013 2Q Report*, at App'x I-1, 2Q 2013 AFFH Sites Progress List (submitted July 19, 2013).

### **Zoning Ordinance**

- Multifamily housing is permitted as-of-right in three zoning districts: the Medium - High Density Residential (R-1/4) district, the Residential – Multifamily / Medium Density (R-MF/4) district and the Residential - Multifamily / High Density (R-MF/6) district. Ex. F, Town of North Salem Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 6, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 7, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 5, Nov. 1, 2011.<sup>2</sup>
- Multifamily dwellings for elderly and handicapped persons provided in conjunction with assisted living facilities are permitted as-of-right in one zoning district (PD-CCRC). Ex. F, Town of North Salem Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012);

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<sup>2</sup> In Figure 7 of the County's Eighth Zoning Submission regarding North Salem, the County lists additional districts as permitting multifamily housing as-of-right: the NB, PO and RO districts, all of which are listed as not permitting multifamily housing in the County's February submission. Compare Ex. I, Town of North Salem, at 19-22, Eighth Zoning Submission, dated July 23, 2013, with Ex. F, Town of North Salem Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). A review of the Town's zoning code reveals that residential uses are not permitted in the NB and RO districts and that only single-family detached dwellings are permitted in the PO district. Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 9, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 11, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 12, Nov. 1, 2011.

Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 8, Nov. 1, 2011.

- Multifamily housing is permitted as a conditional use in the GB district on lots of at least 160,000 square feet. Ex. F, Town of North Salem Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 10, Nov. 1, 2011; Table of Bulk Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 16, Nov. 1, 2011. For affordable housing, however, the minimum lot size is reduced to 5,000 square feet. TOWN OF NORTH SALEM CODE § 250 Attachment 10, Nov. 1, 2011.
- Multifamily housing is permitted by special permit in five other districts. Ex. F, Town of North Salem Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 1, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 2, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 3, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 4, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 13, Nov. 1, 2011.
- Two-family dwellings are permitted as-of-right in three zoning districts (R-1/4, R-MF/4, R-MF/6) and by special permit in four additional zoning districts.<sup>3</sup> Ex. F, Town of North Salem Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 5, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 6, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 7, Nov. 1, 2011.
- Accessory apartments are permitted as-of-right in one zoning district (the Planned Development - Continuing Care Retirement Community (PD-CCRC) district) and by special permit in 10 additional zoning districts. Ex. F, Town of North Salem Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 8, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 1, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 2, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 3, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 4, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 5, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 9, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 10, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 11, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 12, Nov. 1, 2011;

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<sup>3</sup> In a response letter dated April 18, 2013, Supervisor Warren J. Lucas stated that, contrary to the County Planning Department's February 29, 2012 analysis of zoning districts in the County's municipalities, two-family dwellings are also allowed as-of-right in R-MF/4 and R-MF/6. Ex. H, Town of North Salem Response Letter from Supervisor Warren J. Lucas, dated Apr. 18, 2013.

Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 13, Nov. 1, 2011.

- Mixed-use development (i.e., residences above stores) is not permitted as-of-right in any zoning district.<sup>4</sup> Ex. F, Town of North Salem Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012).
- The Town’s definition of *affordable housing unit* is consistent with the model ordinance. TOWN OF NORTH SALEM CODE § 250-5. The Town also defines *moderate-income housing* (MIH), which is a single-family dwelling unit with a sale price not exceeding a multiple of the average annual salary paid to full-time Town employees, depending on unit size. TOWN OF NORTH SALEM CODE § 250-128.A. The Town code notes that this definition “includes only the five (5) fee-simple owned units at Salem Chase and the seven (7) rental units at Owensville and Odle Close.” TOWN OF NORTH SALEM CODE § 250-5.

### **Restrictive Practices**

- Multifamily developments must be on lots of at least five acres. Table of Bulk Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 16, Nov. 1, 2011.
- In the R-1/4 and R-MF/4 districts, the maximum density for multifamily development is four units per acre. Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 5, Nov. 1, 2011; Table of Use and Density for the R-MF/4 District, TOWN OF NORTH SALEM CODE § 250 Attachment 15, Nov. 1, 2011. The R-MF/6 district has a maximum density of six multifamily units per acres. Table of Use and Density for the R-MF/6 District, TOWN OF NORTH SALEM CODE § 250 Attachment 14, Nov. 1, 2011.
- Mixed-use development (i.e., residences above stores) is not permitted as-of-right in any zoning district. Ex. F, Town of North Salem Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012).

### **Incentives and Mandates**

- At least 10 percent of all units in subdivisions of 10 or more units must be affordable. TOWN OF NORTH SALEM CODE § 250-18.B(2). The requirement is

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<sup>4</sup> In a response letter dated April 18, 2013, Supervisor Warren J. Lucas stated that, contrary to the County Planning Department’s February 29, 2012, analysis of zoning districts in the County’s municipalities, mixed-use development is allowed in the GB, PO, RO, NB, PD and PD-CCRC districts, but this is not supported by a reading of the zoning ordinance. Ex. H, Town of North Salem Response Letter from Supervisor Warren J. Lucas, dated Apr. 18, 2013. The Planned Development (PD) district is intended for “potential areas of mixed residential and nonresidential uses,” TOWN OF NORTH SALEM CODE § 250-19, but commercial uses are not permitted as-of-right in the PD district. Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 13, Nov. 1, 2011. Residential uses are not permitted as-of-right in the GB, RO and NB districts, and only single-family detached homes are permitted in the PO district. Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 10, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 12, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 9, Nov. 1, 2011; Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 11, Nov. 1, 2011. The only mix of uses permitted as-of-right in the PD-CCRC district consists of assisted living facilities in conjunction with dwellings for seniors. Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 8, Nov. 1, 2011.

increased to 20 percent in the R-1/4, R-MF/4, R-MF/6 and GB districts. TOWN OF NORTH SALEM CODE § 250-19.1.

- In the R-4, R-2, R-1, R-1/2, R-1/4 and PO districts, density bonuses of 25 percent may be awarded to a development that provides more than the minimum required number of affordable units, or, in subdivisions of less than 10 lots, a “reasonable number” of affordable units. TOWN OF NORTH SALEM CODE § 250-18.B.1. Similar bonuses of 20 percent may be awarded in the R-MF/4 and R-MF/6 districts. Table of Use and Density for the R-MF/6 District, TOWN OF NORTH SALEM CODE § 250 Attachment 14, Nov. 1, 2011; Table of Use and Density for the R-MF/4 District, TOWN OF NORTH SALEM CODE § 250 Attachment 15, Nov. 1, 2011.
- For affordable dwelling units, the minimum required lot area for multifamily housing in a GB district is reduced from 160,000 square feet to 5,000 square feet. Table of General Use Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 10, Nov. 1, 2011; Table of Bulk Requirements, TOWN OF NORTH SALEM CODE § 250 Attachment 16, Nov. 1, 2011.

### **Zoning Map, Development Pattern and Development Potential**

- Zoning districts that allow multifamily housing as-of-right are located in six locations, covering one percent of the Town’s land area. Ex. E, Town of North Salem Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-B Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).
- The six areas contain only four identified development sites, but they are large sites, averaging 19 acres. Ex. E, Town of North Salem Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). They can cumulatively accommodate slightly more than 300 housing units as-of-right. *Id.* at Town of North Salem Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).
- Only 0.14 percent of the land area currently in residential use is occupied by multifamily housing (defined for this purpose as apartments, townhouses and quadrplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. An additional 0.82 percent is occupied by two- and three-family housing. *Id.*
- The Town is located within the watershed of the New York City water supply system, and is thus subject to the *Rules and Regulations for the Protection of the New York City Water Supply and Its Sources* (more commonly known as the *Watershed Rules and Regulations*). See *Priority Areas for New York City Land Acquisition & Stewardship Program* (1997), available at <http://www.ecolibary.org/page/DP4507>. This consideration places considerable constraints on the density and location of housing development in the Town. See Ex. I, Town of North Salem Zoning Analysis, at 5, Eighth Zoning Submission, dated July 23, 2013.
- Because of the low housing values in the Town, it appears that density bonuses alone, absent subsidies, would probably not be sufficient to induce substantial mixed-income development. Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012).

## Master Plan

- The most recent comprehensive plan was adopted in 2011 and completed by Ferrandino & Associates. *North Salem Comprehensive Plan*, adopted Dec. 20, 2011. The plan reviews the existing affordable housing developments in the Town and presents an estimated need for additional affordable housing based on the Rutgers Affordable Housing Needs Assessment report of 2004. *Id.* at 75.
- The plan acknowledges existing challenges to the development of affordable housing, such as the limited amount of land available for development and high land and housing costs. *Id.* at 76.
- The plan recommends that the Town adjust its formula for affordability to align with HUD income limits used by Westchester County, increase support for affordable rental units, and work with the County to implement the fair housing Settlement. *Id.* at 77-79.

## Race, Ethnicity and Socioeconomic Characteristics

- North Salem's Black population increased from 0.8 percent of the Town's total population in 2000 to 1.3 percent in 2010, and the Hispanic population increased from 3.7 percent to 7.5 percent of the Town's total population. Ex. K, Racial Composition Table, Town of North Salem – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 5 percent of the Town's population to 9 percent. *Id.*
- This increase adjusts the Town of North Salem's status under section 7(a) of the Settlement to section 7(b).<sup>5</sup>
- In districts that allow multifamily housing as-of-right, the population was generally too small (fewer than ten persons) in both 2000 and 2010 for the Census Bureau to report the racial and ethnic breakdown. *Id.*
- The Town's median family income rose from \$109,468 in 1999, as reported in the 2000 census, to \$124,620 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income declined from \$153,429 to \$135,155. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Town's families earning no more than 80 percent of Westchester County's Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – increased slightly from about 23.0 percent as of the 2000 census to about 25.9 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

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<sup>5</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

## Implications

- The Town of North Salem's zoning ordinance appears to provide meaningful opportunities for the development of affordable housing sufficient to meet the most recent and best available estimate of its share of regional affordable housing need.
- In its 2011 comprehensive plan, the Town has committed to satisfying its affordable housing obligation, and the Town mandates that 10 percent of newly developed housing units be affordable. The Town does not provide incentives towards meeting the mandate, but it does provide zoning density bonuses of up to 25 percent for developments that exceed the mandated requirement.
- The Town contains several large potential development sites where multifamily housing can be built as-of-right. The sites can accommodate more than 300 housing units, which is almost four times the number needed to satisfy the Town's outstanding obligation under the unofficial 2005 Housing Allocation Plan.
- In another zoning district, a developer is seeking approvals to build 102 units of affordable housing.
- The low value of market-rate multifamily housing in North Salem, relative to the high cost of development, may necessitate significant incentives to ensure the development of affordable units.
- Sixty-five of the 74 affordable units that have been created or approved within the Town will be in a new AFFH development developed pursuant to the County's obligations under the Settlement. The Town's openness to this type of development is promising, but unless similar financial and land-use incentives are created beyond the expiration of the Settlement's term, the opportunities for future affordable housing development may be less practically feasible.
- It therefore may be necessary for the Town to provide additional opportunities for affordable housing development. Although the range of options is limited by the constraints imposed by the Town's location within the watershed of the New York City water supply system, it may still be possible to reduce the minimum lot sizes for multifamily housing, to allow accessory housing units in a greater number of areas, to allow mixed-use development, to allow cottage housing in some lower density areas, or to allow two-family housing with one affordable unit instead of a similarly sized single-family home.
- Even with additional Town actions, the creation of additional affordable housing may be difficult without assistance in the form of financial subsidies and marketing.



## NORTH SALEM DATA SHEET

a. Total acreage of the Town (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	14,864 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	142.7 acres	1.0%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	104.3 acres	0.7%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes	96.7 acres	0.7%
R-MF/4	54.34 acres	
R-MF/6	26.13 acres	
R-1/4	16.21 acres	
(Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))		
e. Order of magnitude area available for development <sup>6</sup>	77.3 acres	0.5%
R-MF/4	43.47 acres	
R-MF/6	20.9 acres	
R-1/4	12.96 acres	
(Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))		
f. Number of sites available for development (See Ex. E, Town of North Salem Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	4 sites	
g. Average size of sites (See Ex. E, Town of North Salem Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	19.3 acres	
h. Theoretical number of multifamily units that can be developed as-of-right	307 units	
R-MF/4	173 units	
R-MF/6	83 units	
R-1/4	51 units	
(See Ex. E, Town of North Salem Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))		
i. Average selling price for multifamily (condo) units <sup>7</sup> (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$324,000	

<sup>6</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>7</sup> Because data was not provided for the municipality, the weighted average selling price for the other municipalities in the same region of the County was calculated and used, employing the County's definition of North, Central and South for what is meant as region.

j. Order-of-magnitude value for land, per condo unit \$65,000  
(Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))

k. Order-of-magnitude total cost of development, \$375,000  
per condo unit<sup>8</sup>  
(Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))

l. Percent minority population  
2000 Census (0.8% Black, 3.7% Hispanic) 5%  
2010 Census (1.3% Black, 7.5% Hispanic) 9%  
(Ex. K, Racial Composition Table, Town of North Salem – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

m. Percent minority population in the zoning districts  
permitting multifamily housing as-of-right<sup>9</sup>  
2000 Census  
R-MF/4 N/A  
R-MF/6 N/A  
R-1/4 N/A  
2010 Census  
R-MF/4 (0.0% Black, 6.9% Hispanic) 7%  
R-MF/6 N/A  
R-1/4 N/A  
(Ex. K, Racial Composition Table, Town of North Salem – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

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<sup>8</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in North Salem are in the lowest quartile of the 31 eligible municipalities, total development costs in North Salem are likely to be lower than the \$375,000 average.

<sup>9</sup> If the total population is fewer than ten persons, the Census Bureau does not report racial breakdown. This was the case for all three districts in 2000 and for two of the three districts in 2010. A total of 19 people were enumerated in these districts in 2000, and a total of 23 were enumerated in 2010. In 2010, 10 residents lived in the R-MF/4 district, and 13 lived in the other two districts.

n. Municipal status under the Settlement based on percent minority population<sup>10</sup>  
 2000 Census Section 7(a)  
 2010 Census Section 7(b)  
 (Ex. K, Racial Composition Table, Town of North Salem – 2000 & 2010 Census Data  
 (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)  
 2000 \$66,500  
 2010 \$83,800  
 (Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban  
 Development)

p. Number of families below 80% area median income (AMI)<sup>11</sup>  
 2000 321 23.0%  
 2007-2011 352 25.9%  
 (Profile of Selected Economic Characteristics: 2000 Census; Selected Economic  
 Characteristic: 2007-2011 American Community Survey 5-Year Estimates)

q. Median family income  
 2000 \$109,468  
 2007-2011 \$124,620  
 (Profile of Selected Economic Characteristics: 2000 Census; Selected Economic  
 Characteristic: 2007-2011 American Community Survey 5-Year Estimates)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark 78 units  
 2015 Allocation 152 units  
 Number of units created since 2000 74 units  
 (See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-  
 2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

<sup>10</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

<sup>11</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## TOWN OF OSSINING

The Town of Ossining's current zoning code does not appear to provide meaningful opportunities for the development of affordable housing to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> Multifamily housing is not permitted as-of-right anywhere in the Town; nor is any other housing type other than single-family homes. Ex. F, Town of Ossining Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); see also Zoning, TOWN OF OSSINING CODE Ch. 200. Multifamily housing, two-family housing, mixed-use development, and accessory housing units are allowed by special permit in certain locations, with multifamily housing restricted to lots of at least one acre. Ex. F, Town of Ossining Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012).

The Town has adopted the provisions of the model affordable housing zoning ordinance and requires that 10 percent of the units in any new residential development be affordable. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; TOWN OF OSSINING CODE §§ 200-32, 200-33, 200-34, 200-35 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013). These provisions, however, would only apply to multifamily housing development that is granted special permits, which are subject to the discretion of the Town.

Ossining's zoning restrictions on as-of-right development of multifamily housing and alternatives for producing affordable housing may also inhibit its ability to meet the most recent and best available estimate of its share of regional affordable housing need. The Town of Ossining has built or approved five units since 2000. See Ex. H, Town of Ossining Response Letter from Susan Donnelly, Supervisor, at 1, dated July 23, 2013. The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") estimated Ossining's fair share of regional need at slightly more than 100 affordable housing units. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Town's success in providing for the most recent and best available estimate of its share of regional affordable housing need.

### Model Zoning and County Benchmark

- The Town has adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; TOWN OF OSSINING CODE §§ 200-32, 200-33,

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

200-34, 200-35 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).

- The HOC's 2005 Affordable Housing Allocation Plan estimated Ossining's share of regional need for affordable housing at 113 affordable housing units, but only five affordable housing units have been built or approved in the Town since 2000. See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012) and Ex. H, Town of Ossining Response Letter from Susan Donnelly, Supervisor, at 1, dated July 23, 2013.

### **Zoning Ordinance**

- Multifamily housing development is not permitted as-of-right in any district. Ex. F, Town of Ossining Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); see also Zoning, TOWN OF OSSINING CODE Ch. 200. Multifamily development is permitted as a special use in three zoning districts (MF, MF-1 and GB). *Id.* at Town of Ossining Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF OSSINING CODE §§ 200-16.C, 200-16.1.C, 200-18.B(1).
- Mixed-use development (i.e., residences above stores) is not permitted as-of-right in any district. *Id.* at Town of Ossining Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). It is allowed by special permit in the General Business (GB) district only. *Id.*; TOWN OF OSSINING CODE § 200-18.B(2).
- Two-family dwellings are not permitted as-of-right. *Id.* at Town of Ossining Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). They are allowed by special permit in five zoning districts. *Id.*; TOWN OF OSSINING CODE §§ 200-13.B(2), 200-14.B(1), 200-15.B(1), 200-15.B(1), 200-16.1.B(1).
- Accessory housing units are not permitted as-of-right. Town of Ossining Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). They are allowed by special permit in all districts that allow single-family homes, in locations where fewer than three accessory units are located within a 500-foot radius. *Id.*; TOWN OF OSSINING CODE § 50-5.D.

### **Restrictive Practices**

- Multifamily housing development, two-family homes and mixed-use development and accessory units are not permitted as-of-right anywhere in the Town. Ex. F, Town of Ossining Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); see also Zoning, TOWN OF OSSINING CODE Ch. 200.
- Multifamily developments allowed as a special use must be on lots of at least 40,000 square feet (i.e., about one acre). Ex. F, Town of Ossining Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012).
- Mixed-use development allowed by special permit must be on a lot of at least 20,000 square feet. TOWN OF OSSINING CODE § 200-18.B(2)(a). The minimum housing unit size is 850 square feet for a studio, efficiency or one-bedroom unit; 1,150 square feet for a two-bedroom unit; and 1,450 square feet for a three-bedroom unit. TOWN OF OSSINING CODE § 200-18.B(2)(c).

### **Incentives and Mandates**

- Within all residential developments of 10 or more units, 10 percent must be below-market-rate (BMR) units, and residential developments of five to nine units must contain at least one below-market-rate unit. TOWN OF OSSINING CODE § 200-33. The definition of *below-market-rate unit* is consistent with the definition of *affordable housing unit* in the model zoning ordinance. Compare TOWN OF OSSINING CODE § 200-53, with Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions.
- Density bonuses are awarded in residential districts and the General Business district, so long as half of the density awarded is made up of BMR units. TOWN OF OSSINING CODE § 200-34.

### **Zoning Map, Development Pattern and Development Potential**

- There is no area in the Town where multifamily housing development is permitted as-of-right. Ex. F, Town of Ossining Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); see also Zoning, TOWN OF OSSINING CODE Ch. 200. There are therefore no available development sites in such an area. Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012).
- Multifamily housing (defined for this purpose as apartments, townhouses or quadraplexes) occupies 16.0 percent of the land area devoted to residential use. Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. An additional 2.9 percent is occupied by two- and three-family housing. *Id.*

### **Master Plan**

- The most recent comprehensive plan was adopted in 2002, completed by Frederick P. Clark Associates. *Town of Ossining Comprehensive Plan 2002*, adopted Sept. 24, 2002. The plan suggests working with the County to promote the development of different housing types to meet the varying needs of residents. *Id.* at C-3. The plan recommends working with housing groups, nonprofits, and government agencies to provide financial housing assistance. *Id.* The plan also suggests evaluating whether or not mixed-used development can be expanded within the Town. *Id.* at C-4.

### **Race, Ethnicity and Socioeconomic Characteristics**

- The share of Ossining's population consisting of persons identifying themselves as Black remained essentially unchanged between the 2000 and 2010 census at 4.2 percent of the Town's total population in 2000 and 4.1 percent in 2010, but the Hispanic population increased from 7.1 percent to 11.8 percent of the Town's total population. Ex. K, Racial Composition Table, Town of Ossining – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 11 percent of the Town's population to 16 percent. *Id.*
- This increase would adjust the Town of Ossining's status under the Settlement from section 7(b) to section 7(c).<sup>2</sup>

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population

- The Town’s median family income rose from \$70,468 in 1999, as reported in the 2000 census, to \$87,048 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income declined from \$98,767 to \$94,407. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Town’s families earning no more than 80 percent of Westchester County’s Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – decreased slightly from about 47.3 percent as of the 2000 census to about 47.1 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

### Implications

- The Town of Ossining’s current zoning code does not appear to provide meaningful opportunities for the development of affordable housing to meet the most recent and best available estimate of its share of regional affordable housing need.
- The Town has adopted the provisions of the model affordable housing zoning ordinance and requires that 10 percent of the units in any new residential development be affordable.
- Multifamily housing is not permitted as-of-right anywhere in the Town, nor is any other housing type other than single-family homes. Since the approved methodology for these reports calls for identifying available development sites and capacity for residential development only in areas permitting multifamily housing development as-of-right, no residential development opportunities have been identified.
- Where multifamily development is permitted as a special use, the minimum lot area is 40,000 square feet (i.e., one acre), which prohibits the development of smaller quadruplex developments.
- While density bonuses are provided for affordable housing development, because of the relatively low condo values in the Town relative to the cost of development, the zoning incentive by itself would probably not be sufficient to induce mixed-income development. Financial incentives, or subsidies, may be required as well.
- Only five affordable housing units have been built or approved in Ossining since 2000.
- The Affordable Housing Allocation Plan produced in 2005 by the HOC estimated Ossining’s fair share of regional affordable housing need at 113 units.
- Additional actions will be needed for the Town to make meaningful progress towards meeting the most recent and best available estimate of its share of regional affordable housing need. These might include, in some combination, allowing multifamily housing and mixed-use development as-of-right in some

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would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

zoning districts, permitting accessory housing units as-of-right, and reducing minimum lot size requirements for multifamily housing to provide opportunities for additional types of lower density multifamily development (such as quadraplexes).

- Even with additional Town actions, affordable housing will remain difficult without assistance in the form of financial subsidies and marketing (such as the maintenance of a Countywide registry of affordable units).



## OSSINING DATA SHEET

a. Total acreage of the Town (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	1,945 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	0 acres	0%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	0 acres <sup>3</sup>	0%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes (Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012) – Ossining Not Listed)	0 acres	0%
e. Order-of-magnitude area available for development <sup>4</sup> (Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012) – Ossining Not Listed)	0 acres	0%
f. Number of sites available for development	0 sites	
g. Average size of sites (Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012) – Ossining not listed)	N/A	
h. Theoretical number of multifamily units that can be developed as-of-right (Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012) – Ossining not listed)	0 units	
i. Average selling price for multifamily (condo) units <sup>5</sup> (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$356,000	
j. Order-of-magnitude value for land, per condo unit <sup>6</sup> (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$71,000	

<sup>3</sup> There are no zones that allow multifamily housing as-of-right; thus, there are no undeveloped parcels. Since there are zero acres of undeveloped land in the Town, fact sheet points d through h, as well as m, are also zero or not applicable.

<sup>4</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>5</sup> Data provided by the County was rounded to the nearest thousand.

<sup>6</sup> Data provided by the County was rounded to the nearest thousand.

k. Order-of-magnitude total cost of development, per condo unit <sup>7</sup> (Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	\$375,000
l. Percent minority population	
2000 Census (4.2% Black, 7.1% Hispanic)	11%
2010 Census (4.1% Black, 11.8% Hispanic) (Ex. K, Racial Composition Table, Town of Ossining – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	16%
m. Percent minority population in the zoning districts permitting multifamily housing as-of-right (Ex. K, Racial Composition Table, Town of Ossining – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	N/A
n. Municipal status under the Settlement based on percent minority population <sup>8</sup>	
2000 Census	Section 7(b)
2010 Census	Section 7(c)
(Ex. K, Racial Composition Table, Town of Ossining – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	
o. Westchester County 80% area median income (AMI)	
2000	\$66,500
2010	\$83,800
(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)	

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<sup>7</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in Ossining are in the third quartile of the 31 eligible municipalities, total development costs in Ossining are likely to be lower than the \$375,000 average.

<sup>8</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point l of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point l of this data sheet are likely higher than they would be for the purposes of determining eligibility.

p. Number of families at or below 80% area median income (AMI) <sup>9</sup>	
2000	3,208 47.3%
2007-2011	3,294 47.1%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income <sup>10</sup>	
2000	\$70,468
2007-2011	\$87,048

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark	108 units
2015 Allocation	113 units
Number of units created since 2000	5 units

(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. H, Town of Ossining Response Letter from Susan Donnelly, Supervisor, at 1, dated July 23, 2013.)

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<sup>9</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

<sup>10</sup> Ossining contains part of Briarcliff Manor, but this municipality is excluded from Ossining's data calculations because it is discussed individually in a separate section of this report. However, the Census does not calculate median income for the subsection of Ossining that excludes Briarcliff Manor. These data approximate the median incomes for the remainder of Ossining by taking the weighted average of the median income in the remaining areas. The median incomes for 2000 and 2007-2011 are derived by multiplying each subsection of Ossining's median income by its population, adding all of these figures together, and then dividing that sum by the total population in all of these subsections.

## VILLAGE OF PELHAM

The Village of Pelham's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> Multifamily housing is permitted as-of-right in some zoning districts. Ex. F, Village of Pelham Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF PELHAM CODE §§ 98-45.A(2), 98-57.A, 98-72.A, 98-81.A (2012). The analysis by the County Department of Planning, however, indicates that only about 54 new housing units could be accommodated on available development sites in these districts. Ex. E, Village of Pelham, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). Mixed-use development is also permitted as-of-right in some zoning districts. Ex. F, Village of Pelham Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). Accessory apartments are prohibited. *Id.*

To date, there is little or no evidence that the Village has taken steps to reform its zoning code or otherwise develop affordable housing. The Village has not adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, VILLAGE OF PELHAM CODE Ch. 98; Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). Although Pelham has indicated that it is considering proposals to amend the zoning ordinance to incorporate the model ordinance provisions, the status of that effort is not clear from the County's quarterly reports. See Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). Only three affordable housing units have been built or approved in Pelham since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

Pelham's zoning restrictions may also inhibit its ability to meet the most recent and best available estimate of its share of regional affordable housing need. The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") estimated Pelham's fair share of regional need at 74 affordable housing units. *Id.* The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Village's success in providing for the most recent and best available estimate of its share of regional affordable housing need.

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

## Model Zoning and County Benchmark

- The Village has not adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, VILLAGE OF PELHAM CODE Ch. 98 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- According to Westchester County's 2013 First Quarter Report, Pelham has placed the Model Ordinance Provisions under consideration. Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- The Affordable Housing Allocation Plan produced in 2005 by the HOC called for 74 affordable housing units in Pelham, but only three affordable housing units have been built or approved in the Village since 2000, leaving a balance of 71 units. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

## Zoning Ordinance

- Multifamily development is permitted as-of-right in four zoning districts: the two Detached Single and Two-Family and Multifamily Houses (M and M-1) districts; the Restricted Retail Use Business (Bus-1) district; and the General Retail Uses and Multifamily Business (Bus-2) district.<sup>2</sup> Ex. F, Village of Pelham Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF PELHAM CODE §§ 98-45.A(2), 98-57.A, 98-72.A, 98-81.A.
- Mixed-use development (i.e., residences above stores) is permitted as-of-right in three zoning districts. Ex. F, Village of Pelham Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF PELHAM CODE §§ 98-72.A(16), 98-81.A(1), 98-90.A(1).
- Two-family dwellings are permitted as-of-right in eight zoning districts. Ex. F, Village of Pelham Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF PELHAM CODE §§ 98-31.A(2), 98-38.A(2), 98-45.A(1), 98-57.A(1), 98-71.1.A(1), 98-72.A(1), 98-81.A(1), 98-90.A(1).
- Accessory apartments are prohibited throughout the Village. Ex. F, Village of Pelham Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); see also Zoning, VILLAGE OF PELHAM CODE Ch. 98.

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<sup>2</sup> The County's Eighth Zoning Submission, dated July 23, 2013, states, on p. 3 of the Village of Pelham analysis, that only two districts permit multifamily housing as-of-right. See Ex. I. The statement is contradicted, however, by the zoning district table that appears as Figure 7 of that analysis, as well as by the Village of Pelham zoning table in the County's earlier submission, Ex. F, Village of Pelham Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012), both of which list four districts as permitting multifamily housing as-of-right. A review of the Village of Pelham's zoning code confirms that four districts allow multifamily housing as-of-right. VILLAGE OF PELHAM CODE §§ 98-45.A(2), 98-57.A, 98-72.A, 98-81.A. Also, the County's February 2012 submission refers to two of the districts as Business-1 and Business-2, but the County's July 2013 document refers to them as C-1 and C-2. Compare Ex. F, Village of Pelham Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012), with Ex. I, Village of Pelham Zoning Analysis, at 3, Eighth Zoning Submission, dated July 23, 2013. The zoning code online at <http://ecode360.com/8781605> refers to Business-1 and Business-2.

### **Restrictive Practices**

- Accessory apartments are prohibited throughout the Village. Ex. F, Village of Pelham Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); *see also* Zoning, VILLAGE OF PELHAM CODE Ch. 98.

### **Incentives and Mandates**

- The Village does not provide incentives or mandates for the provision of affordable housing. Ex. F, Village of Pelham Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); *see also* Zoning, VILLAGE OF PELHAM CODE Ch. 98.

### **Zoning Map, Development Pattern and Development Potential**

- Zoning districts that permit multifamily housing as-of-right cover eight areas within the Village and amount to 6 percent of its total area. Ex. E, Village of Pelham, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-B Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).
- These areas contain small potential development sites, cumulatively comprising just over one acre. Ex. E, Village of Pelham, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). The sites can accommodate a total of approximately 54 housing units. *Id.* at Village of Pelham, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).
- The zoning districts that permit multifamily development have at least 20 percent as of the 2000 census and at least 30 percent as of the 2010 census of Black and Hispanic residents. Ex. K, Racial Composition Table, Village of Pelham – 2000 & 2010 Census Data (submitted Aug. 15, 2012).
- Only 1.7 percent of the land area in the Village that is devoted to residential use is occupied by multifamily housing (defined for this purpose as apartments, townhouses and quadraplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. An additional 12.2 percent is occupied by two- and three-family housing. *Id.*

### **Master Plan**

- The most recent comprehensive plan was adopted in 2008, completed by Saratoga Associates. *Village of Pelham Comprehensive Plan*, April 2008. The plan recognizes the need for a variety of housing types that might be suitable to single residents, young families and seniors. *Id.* at 63. The plan suggests the use of developer incentives to encourage mixed-use development in downtown districts. *Id.*

### **Race, Ethnicity and Socioeconomic Characteristics**

- Pelham's Black population increased from 6.7 percent of the Village's total population in 2000 to 9.5 percent in 2010, and the Hispanic population increased from 7.2 percent to 12.3 percent of the Village's total population. Ex. K, Racial Composition Table, Village of Pelham – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 14 percent of the Village's population to 22 percent. *Id.*

- This increase adjusts the Village of Pelham's status under section 7(b) of the Settlement to Section 7(c).<sup>3</sup>
- In districts that allow multifamily housing as-of-right, the combined Black and Hispanic population increased from 20 percent in 2000 to 37 percent in 2010. *Id.*
- The Village's median family income rose from \$95,929 in 1999, as reported in the 2000 census, to \$138,341 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income increased from \$134,453 to \$150,036. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Village's families earning no more than 80 percent of Westchester County's Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – declined from about 31.4 percent as of the 2000 census to about 28 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

## Implications

- The Village of Pelham's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.
- Multifamily housing is permitted as-of-right in some zoning districts, but the analysis by the County indicates that only about 54 new housing units could be accommodated on available development sites in these districts.
- Mixed-use development is also permitted as-of-right in some zoning districts, but accessory apartments are prohibited.
- The absence of any incentives or mandates decreases the likelihood that any new multifamily units will be affordable.
- Additional actions will be needed for the Village to make meaningful progress towards meeting its share of regional affordable housing need. These might include, in some combination, adopting the provisions of the County's model affordable housing zoning ordinance, providing mandates and incentives for affordable housing, mapping additional areas where multifamily housing is permitted as-of-right, permitting accessory housing units as-of-right, and providing opportunities for additional types of low-density development (such as cottage-style housing or quadrplexes).
- Even with additional Village actions, affordable housing will remain difficult without assistance in the form of financial subsidies for small or affordable-only

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<sup>3</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

developments and marketing (such as the maintenance of a Countywide registry of affordable units).



## PELHAM DATA SHEET

a. Total acreage of the Village (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	531 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	32.8 acres	6.2%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	1.6 acres	0.3%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes M, Bus-1 and Bus-2 <sup>4</sup> 1.01 acres M-1 0.38 acres (Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))	1.4 acres	0.3%
e. Order-of-magnitude area available for development <sup>5</sup> M, Bus-1 and Bus-2 0.81 acres M-1 0.30 acres (Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))	1.1 acres	0.2%
f. Number of sites available for development (See Ex. E, Village of Pelham Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	8 sites	
g. Average size of sites (See Ex. E, Village of Pelham Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0.14 acres	
h. Theoretical number of multifamily units that can be developed as-of-right M, Bus-1 and Bus-2 22 units M-1 32 units (See Ex. E, Village of Pelham Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	54 units	
i. Average selling price for multifamily (condo) units <sup>6</sup> (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$543,000	

<sup>4</sup> The Methodology II-C, II-D(1) and II-D(2) tables, the Racial Composition Table and the accompanying maps provided by the County Planning Department include a district labeled "C-1(B-1)." There is no C-1 district in the zoning ordinance or in the County Planning Department's February 29, 2012, zoning districts analysis. Comparison with the Village's online zoning map shows that the "C-1" district actually includes the areas mapped as M, Bus-1 and Bus-2.

<sup>5</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>6</sup> Because data was not reported for sales in the 2011-2012 time period for the municipality, the data presented for points i and j reflect sales from July 1, 2010 through June 30, 2011.

j. Order-of-magnitude value for land, per condo unit <sup>7</sup> (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$136,000
k. Order-of-magnitude total cost of development, per condo unit <sup>8</sup> (Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	\$375,000
l. Percent minority population	
2000 Census (6.7% Black, 7.2% Hispanic)	14%
2010 Census (9.5% Black, 12.3% Hispanic) (Ex. K, Racial Composition Table, Village of Pelham – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	22%
m. Percent minority population in the zoning districts permitting multifamily housing as-of-right	
2000 Census (7.4% Black, 12.8% Hispanic)	20% <sup>9</sup>
M, Bus-1 and Bus-2 7.4% Black, 12.7% Hispanic	20%
M-1 6.3% Black, 14.3% Hispanic	21%
2010 Census (15.8% Black, 21.1% Hispanic)	37% <sup>10</sup>
M, Bus-1 and Bus-2 15.8% Black, 21.2% Hispanic	37%
M-1 15.4% Black, 15.4% Hispanic	31%
(Ex. K, Racial Composition Table, Village of Pelham – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	
n. Municipal status under the Settlement based on percent minority population <sup>11</sup>	
2000 Census	Section 7(b)
2010 Census	Section 7(c)
(Ex. K, Racial Composition Table, Village of Pelham – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	

<sup>7</sup> Data provided by the County was rounded to the nearest thousand.

<sup>8</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in Pelham are in the second quartile of the 31 eligible municipalities, total development costs in Pelham are likely to be higher than the \$375,000 average.

<sup>9</sup> Weighted average of the M-1 and the “C-1” (really M, Bus-1 and Bus-2) districts.

<sup>10</sup> Weighted average of the M-1 and the “C-1” (really M, Bus-1 and Bus-2) districts.

<sup>11</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point l of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality’s eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point l of this data sheet are likely higher than they would be for the purposes of determining eligibility.

o. Westchester County 80% area median income (AMI)

2000	\$66,500
2010	\$83,800

(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)

p. Number of families at or below 80% area median income (AMI)<sup>12</sup>

2000	531	31.4%
2007-2011	515	28.0%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income

2000	\$95,929
2007-2011	\$138,341

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015

Allocation Plan benchmark

71 units

2015 Allocation

74 units

Number of units created since 2000

3 units

(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

<sup>12</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## VILLAGE OF PELHAM MANOR

The Village of Pelham Manor's current zoning code does not appear to provide meaningful opportunities for the development of affordable housing to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> It has ten zoning districts. Ex. F, Village of Pelham Manor Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). It permits multifamily housing in just one district and that district is entirely built out, with no available development sites. *Id.*; VILLAGE OF PELHAM MANOR CODE § 210-56.B (2009); Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012). The zoning code prohibits accessory apartments and mixed-use development; Ex. F, Village of Pelham Manor Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); *see also* Zoning, VILLAGE OF PELHAM MANOR CODE Ch. 210; and it provides neither mandates nor incentives for affordable housing. Ex. F, Village of Pelham Manor Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); *see also* Zoning, VILLAGE OF PELHAM MANOR CODE Ch. 210.

To date, there is little or no evidence that the Village has taken any steps to reform its zoning code or otherwise develop affordable housing. The Village has not adopted the provisions of the model affordable housing zoning ordinance. *See* Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, VILLAGE OF PELHAM MANOR CODE Ch. 210; Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). Although Pelham Manor has indicated that it is considering proposals to amend the zoning ordinance to incorporate the model ordinance provisions, the status of this effort is not clear from the County's quarterly reports. Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). Despite being given multiple opportunities to respond to a survey conducted by the County Planning Department, the Village has not reported the construction or approval of any affordable housing units since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

Pelham Manor's zoning restrictions on as-of-right development of multifamily housing and alternatives for producing affordable housing may also inhibit its ability to meet the most recent and best available estimate of its share of regional affordable housing need. The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") estimated Pelham Manor's fair share of regional need at approximately 100 affordable housing units, yet there is no indication that any have been built since 2000. *Id.* The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its most recent Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Village's success in providing for the most recent and best available estimate of its share of regional affordable housing need.

### **Model Zoning and County Benchmark**

- The Village has not adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, VILLAGE OF PELHAM MANOR CODE Ch. 210; Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- According to Westchester County's 2013 First Quarter Report, Pelham Manor has placed the Model Ordinance Provisions under consideration. Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- The Affordable Housing Allocation Plan produced in 2005 by the HOC estimated for 101 affordable housing units in Pelham Manor, but there is no indication that any affordable housing units have been built or approved in the Village since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

### **Zoning Ordinance**

- Multifamily housing is permitted as-of-right in one of the Village's ten zoning districts (the MF Multifamily district, the only residential district that permits housing types other than single-family homes, either as-of-right or by special permit). Ex. F, Village of Pelham Manor Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF PELHAM MANOR CODE § 210-56.B.
- Two-family dwellings are permitted as-of-right in one zoning district (the MF district). Ex. F, Village of Pelham Manor Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF PELHAM MANOR CODE § 210-56.
- The minimum lot size for multifamily developments is 7,000 square feet, which is quite small by Westchester standards. Ex. F, Village of Pelham Manor Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012).

### **Restrictive Practices**

- No single multifamily unit may be used to accommodate more than one family or household for each 3,000 square feet of lot area within the district. *Id.*; VILLAGE OF PELHAM MANOR CODE § 210-57.A. That translates into a maximum density of 14 housing units per acre. On the minimum lot size of 7,000 square feet, only a two-family home could be built.
- Mixed-use development (i.e., residences over stores) is prohibited in all zoning districts. Ex. F, Village of Pelham Manor Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); see also Zoning, VILLAGE OF PELHAM MANOR CODE Ch. 210.
- Accessory apartments are prohibited throughout the Village. Ex. F, Village of Pelham Manor Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); see also Zoning, VILLAGE OF PELHAM MANOR CODE Ch. 210.

### **Incentives and Mandates**

- The Village provides no incentives or mandates for affordable housing. Ex. F, Village of Pelham Manor Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); *see also* Zoning, VILLAGE OF PELHAM MANOR CODE Ch. 210.

### **Zoning Map, Development Pattern and Development Potential**

- The zoning district permitting multifamily housing as-of-right is located in one area in the Village, containing 3 percent of the Village's total land area. Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).
- That area is entirely built out, with no available development sites. Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012).
- The estimated average regional value of a condo unit in Pelham Manor (\$337,000) is lower than the estimated cost of development of a condo unit (\$375,000), which may appear to reduce the likelihood of new multifamily housing development, particularly on small sites where economies of scale are not possible, and may limit multifamily housing development. Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012). Subsidies, such as those available from the County under the Settlement, may be needed to make future affordable development more financially viable.
- Only 2.3 percent of the land area of the Village in residential use is occupied by multifamily housing (defined for this purpose as apartments, townhouses and quadrplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. An additional 0.4 percent is occupied by two- and three-family housing. *Id.*

### **Master Plan**

- The Village of Pelham Manor's master plan was not provided by either the County or the municipality. There are no copies made available through other means.

### **Race, Ethnicity and Socioeconomic Characteristics**

- Pelham Manor's Black population remained the same with 2.1 percent of the Village's population in 2000 and 2010, but the Hispanic population increased from 4.6 percent to 7.2 percent of the Village's total population. Ex. K, Racial Composition Table, Village of Pelham Manor – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 7 percent of the Village's total population to 9 percent. *Id.*
- This increase adjusts the Village of Pelham Manor's status under section 7(a) of the Settlement to section 7(b).<sup>2</sup>
- In the district that allows multifamily housing as-of-right, the combined Black and Hispanic population increased from 14 percent in 2000 to 16 percent in 2010. *Id.*

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

- The Village’s median family income rose from \$138,231 in 1999, as reported in the 2000 census, to \$178,021 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income declined from \$193,743 to \$193,070. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Village’s families earning no more than 80 percent of Westchester County’s Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – decreased from about 20.1 percent as of the 2000 census to about 11.3 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

### Implications

- The Village of Pelham Manor’s current zoning code does not appear to provide meaningful opportunities for the development of affordable housing to meet the most recent and best available estimate of its share of regional affordable housing need.
- Only one zoning district in the Village permits multifamily housing. Even though the minimum lot size is quite small, a cap on the density of this district will limit the number of multifamily units that may be developed. Furthermore, this district already appears to be built out. No available development sites have been identified in the one area within the Village where multifamily housing is permitted.
- The Village prohibits mixed-use development and accessory housing units.
- The absence of any mandate or incentives for affordable housing reduces the likelihood that any new housing will be affordable.
- The estimated average value of a condo unit in Pelham Manor is lower than the estimated cost of development of a condo unit in Westchester County, which may appear to reduce the likelihood of new multifamily housing development, particularly on small sites where economies of scale are not possible, and may also reduce the likelihood that affordable multifamily units would be built without subsidies.
- Additional actions will be needed for the Village to make meaningful progress towards meeting the most recent and best available estimate of its share of regional affordable housing need. These might include, in some combination, adopting the provisions of the County’s model affordable housing ordinance, providing mandates and incentives for affordable housing, mapping additional areas where multifamily housing is permitted as-of-right, permitting accessory housing units (especially if they were allowed in accessory buildings, such as existing or “faux” garages), permitting mixed-use development (i.e., residences above stores), and increasing the permitted density of multifamily housing (which, among other benefits, could provide opportunities for additional types of development, such as quadraplexes, on small sites).

- Even with additional Village actions, affordable housing will remain difficult without assistance in the form of financial subsidies and marketing (such as the maintenance of a Countywide registry of affordable units).



## PELHAM MANOR DATA SHEET

a. Total acreage of the Village (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	871 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	24.4 acres	2.8%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	0 acres <sup>3</sup>	0%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes (Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012) – Pelham Manor not listed)	0 acres	0%
e. Order-of-magnitude area available for development <sup>4</sup> (Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012) – Pelham Manor not listed)	0 acres	0%
f. Number of sites available for development	0 sites	
g. Average size of sites (Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012) – Pelham Manor not listed)	N/A	
h. Theoretical number of multifamily units that can be developed as-of-right (Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012) – Pelham Manor not listed)	0 units	
i. Average selling price for multifamily (condo) units <sup>5</sup> (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$337,000	
j. Order-of-magnitude value for land, per condo unit <sup>6</sup> (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$67,000	

<sup>3</sup> There is only one zone that allows multifamily housing as a permitted use in which there are no undeveloped parcels. Since there are zero acres of undeveloped land in the Village, fact sheet points d through h are also zero or not applicable.

<sup>4</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>5</sup> Data provided by the County was rounded to the nearest thousand.

<sup>6</sup> Data provided by the County was rounded to the nearest thousand.

k. Order-of-magnitude total cost of development, per condo unit <sup>7</sup> (Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	\$375,000
l. Percent minority population	
2000 Census (2.1% Black, 4.6% Hispanic)	7%
2010 Census (2.1% Black, 7.2% Hispanic) (Ex. K, Racial Composition Table, Village of Pelham Manor – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	9%
m. Percent minority population in the zoning district permitting multifamily housing as-of-right (MF)	
2000 Census (5.5% Black, 8.3% Hispanic)	14%
2010 Census (3.1% Black, 13.2% Hispanic) (Ex. K, Racial Composition Table, Village of Pelham Manor – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	16%
n. Municipal status under the Settlement based on percent minority population <sup>8</sup>	
2000 Census	Section 7(a)
2010 Census	Section 7(b)
(Ex. K, Racial Composition Table, Village of Pelham Manor – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	
o. Westchester County 80% area median income (AMI)	
2000	\$66,500
2010	\$83,800
(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)	

<sup>7</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in Pelham Manor are in the third quartile of the 31 eligible municipalities, total development costs in Pelham Manor are likely to be lower than the \$375,000 average.

<sup>8</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point l of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point l of this data sheet are likely higher than they would be for the purposes of determining eligibility.

p. Number of families at or below 80% area median income (AMI)<sup>9</sup>

2000	301	20.1%
2007-2011	166	11.3%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income

2000	\$138,231
2007-2011	\$178,021

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015  
Allocation Plan benchmark

101 units

2015 Allocation

101 units

Number of units created since 2000

0 units

(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

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<sup>9</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## VILLAGE OF PLEASANTVILLE

The Village of Pleasantville has made substantial progress in creating affordable housing, and its zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> Although multifamily housing is permitted as-of-right in some districts, those districts are largely built out, leaving only a limited number of very small development sites that could accommodate only about ten new housing units. Ex. F, Village of Pleasantville Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF PLEASANTVILLE CODE §§ 185-15.A, 185-16.A, 185-17.A, 185-19.C(5), 185-20.C(3), 185-22.C(4); Ex. E, Village of Pleasantville, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). Mixed-use development is permitted as-of-right in some locations, but accessory apartments are allowed only by special permit, with a cap of 50 new accessory units throughout the Village. Ex. F, Village of Pleasantville Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF PLEASANTVILLE CODE §§ 185-16.A(6), 185-17.1.A(5), 183-33. Although affordable housing units are mandated within new developments, only minor incentives are available for affordable housing development, and only for senior housing in one zoning district. VILLAGE OF PLEASANTVILLE CODE § 183-44.A, 183-16.C(5)(a)(6)(d).

The Village of Pleasantville has adopted most of the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; VILLAGE OF PLEASANTVILLE CODE § 185-44 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013). However, the Village's master plan suggests limiting multifamily development, despite an addendum to the plan suggesting expansion of mixed-use development. *Village of Pleasantville Master Plan Update – 1995*, at III-5, adopted 2006; *Village of Pleasantville Master Plan Update – 1995*, at II-25-II-26, adopted Oct. 8, 2007.

To date, 56 affordable housing units have been built or approved in Pleasantville since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. Q, Funding Advisory to Monitor, No. 20 (submitted June 27, 2013). That is more than a third of the 129 affordable units that the unofficial 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC"), estimated as Pleasantville's most recent and best available share of regional affordable housing need. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Village's success in providing for the most recent and best available share of regional affordable housing need.

### **Model Zoning and County Benchmark**

- The Village has adopted most of the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; VILLAGE OF PLEASANTVILLE CODE § 185-44; Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).
- The unofficial Affordable Housing Allocation Plan produced in 2005 by the HOC called for 129 affordable housing units in Pleasantville, of which 56 units have been built or approved. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. Q, Funding Advisory to Monitor, No. 20 (submitted June 27, 2013).
- Developers are seeking approvals to construct another nine affordable housing units (seven within a 70-unit mixed-income multifamily housing development on Washington Avenue, plus a proposed two-family home). See Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013).

### **Zoning Ordinance**

- Multifamily housing is permitted as-of-right in three zoning districts (the R-3, R-4 and R-PO districts), and by special permit in three additional districts. Ex. F, Village of Pleasantville Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF PLEASANTVILLE CODE §§ 185-15.A, 185-16.A, 185-17.A, 185-19.C(5), 185-20.C(3), 185-22.C(4).
- Mixed-use development is permitted as-of-right in two zoning districts. Ex. F, Village of Pleasantville Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF PLEASANTVILLE CODE §§ 185-16.A(6), 185-17.1.A(5). An additional three districts allow mixed-use development by special permit. Ex. F, Village of Pleasantville Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF PLEASANTVILLE CODE §§ 185-19.C, 185-20.C, 185-22.C.
- Two-family dwellings are permitted as-of-right in seven zoning districts and by special permit in three additional districts. Ex. F, Village of Pleasantville Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF PLEASANTVILLE CODE §§ 185-12.A(2), 185-13.A(2), 185-14.A(2), 185-15.A(2), 185-16.A(2), 185-17.A(2), 185-17.1A(2), 185-19.C(5), 185-20.C(3), 185-22.C(4).
- Accessory apartments are not allowed as-of-right in any zoning district. Ex. F, Village of Pleasantville Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). They are allowed by special permit in six districts, but with a maximum number specified for the Village. *Id.* VILLAGE OF PLEASANTVILLE CODE § 183-33.

### **Restrictive Practices**

- The three districts that allow multifamily development by special permit limit the number of bedrooms per dwelling unit to two. Ex. F, Village of Pleasantville Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012).
- The zoning code states that there will be a maximum of 50 accessory apartment special permits issued pursuant to the adoption of the code, not including pre-existing accessory apartments that were already granted special permits. VILLAGE OF PLEASANTVILLE CODE § 183-33.

### **Incentives and Mandates**

- In accordance with the model affordable housing zoning ordinance, 10 percent of any development of 10 or more units must be affordable units. VILLAGE OF PLEASANTVILLE CODE § 183-44.A.
- In District A-1 off-street parking requirements are waived for dwelling units that contain no more than two bedrooms, are rental units, and are designated affordable units. VILLAGE OF PLEASANTVILLE CODE § 183-19.C(5)(f)(2)(d). To be eligible for this incentive, affordable units must be occupied by a household that does not earn more than 50 percent of the Westchester County median income, have at least one occupant over the age of 62, and have a rent that does not exceed 30 percent of the annual gross household income. *Id.*
- Five percent of assisted living facility units in the R-PO district must be set aside as affordable. VILLAGE OF PLEASANTVILLE CODE § 183-16.C(5)(a)(6)(d).

### **Zoning Map, Development Pattern and Development Potential**

- Ten areas in the Village, containing 10 percent of its land area, are located within districts allowing as-of-right multifamily development. Ex. E, Village of Pleasantville, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-B Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012). At least half of these areas are entirely built out. *Id.* at Village of Pleasantville, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).
- Five available development sites have been identified in these areas, all very small, averaging less than 1,000 square feet. *Id.*; Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). The sites could accommodate a total of ten housing units as-of-right. Ex. E, Village of Pleasantville, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).
- Elsewhere, developers are seeking approvals for developments that would include a total of nine affordable housing units. See Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013).
- The R-3 district, one of the two zoning districts allowing multifamily housing as-of-right and containing at least one available development site, has a high percentage of Hispanic residents (18 percent in 2000, and the percentage had risen to 42 percent in 2010). Ex. K, Racial Composition Table, Village of Pleasantville – 2000 & 2010 Census Data (submitted Aug. 15, 2012).
- Multifamily housing (defined for this purpose as apartments, townhouses and quadrplexes) occupies 7.8 percent of the land area currently in residential use. Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in*

*Westchester*, at 17, 2010. Two- and three-family housing occupies an additional 7.0 percent of the residential land area. *Id.*

- The estimated average value of a condo unit in Pleasantville (\$275,000) is lower than the estimated cost of development of a condo unit (\$375,000), which may appear to reduce the likelihood of new multifamily housing development, particularly on small sites where economies of scale are not possible, and may also reduce the likelihood that new affordable multifamily units would be built without subsidies. Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012).

### **Master Plan**

- The most recent comprehensive plan was adopted in 1996, completed by Saccardi and Schiff. *Village of Pleasantville Master Plan Update – 1995*, adopted 2006. This plan notes that attempts to encourage higher density housing in the downtown districts proved unsuccessful and offers three possible solutions: increase density even more; eliminate multifamily housing as a permitted use; or split the downtown zone to limit where multifamily housing may be developed. *Id.* at III-5.
- An addendum adopted in 2007 suggests rezoning the Marble Avenue Corridor, including the expansion of mixed-use development in the area. Final Adopted Amendments Relating to Marble Avenue Corridor Study, *Village of Pleasantville Master Plan Update – 1995*, at II-25-II-26, adopted Oct. 8, 2007.

### **Race, Ethnicity and Socioeconomic Characteristics**

- Pleasantville's Black population increased from 2.9 percent of the Village's total population in 2000 to 4.2 percent in 2010, and the Hispanic population increased from 7.4 percent to 11.7 percent of the Village's total population. Ex. K, Racial Composition Table, *Village of Pleasantville – 2000 & 2010 Census Data* (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 10 percent of the Village's population to 19 percent. *Id.*
- This increase adjusts the Village of Pleasantville's status under section 7(a) of the Settlement to section 7(c).<sup>2</sup>
- In districts that allow multifamily housing as-of-right, the combined Black and Hispanic population increased from 9 percent in 2000 to 19 percent in 2010. *Id.*
- The Village's median family income rose from \$105,227 in 1999, as reported in the 2000 census, to \$148,304 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. See *Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*. Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income increased from \$147,485 to \$160,841. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

- The estimated percentage of the Village’s families earning no more than 80 percent of Westchester County’s Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – decreased from about 26 percent as of the 2000 census to about 24.3 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

## Implications

- The Village of Pleasantville has made substantial progress in creating affordable housing, and its zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.
- The districts allowing multifamily housing as-of-right are almost entirely built out. Only a handful of tiny development sites have been identified, which could accommodate only ten housing units as-of-right.
- At two other locations developers are seeking approvals for projects that would include nine affordable housing units.
- The only zoning incentives for affordable housing are available for senior housing in a single zoning district, which does not allow multifamily housing as-of-right. Even these are only minor incentives, involving the waiver of off-street parking requirements. The absence of broadly available or meaningful incentives diminishes the likelihood that affordable housing will be developed.
- The estimated average value of a condo unit in Pleasantville (\$275,000) is lower than the estimated cost of development of a condo unit (\$375,000), which may appear to reduce the likelihood of new multifamily housing development, particularly on small sites where economies of scale are not possible, and may also reduce the likelihood that new affordable multifamily units would be built without subsidies.
- Additional actions will probably be needed for the Village to make much further progress towards satisfying its share of regional affordable housing need. These might include, in some combination, providing broader and more lucrative incentives for affordable housing, mapping additional areas where multifamily housing is permitted as-of-right, permitting accessory housing units as-of-right (especially if they were allowed in accessory buildings, such as existing or “faux” garages) and eliminating the cap on the total number of new accessory apartments in the Village, increasing the areas in which mixed-use development is permitted as-of-right, increasing the permitted density of multifamily housing, and providing opportunities for additional types of development (such as quadraplexes).
- Even with additional Village actions, affordable housing will remain difficult without assistance in the form of financial subsidies and marketing (such as the maintenance of a Countywide registry of affordable units).



## PLEASANTVILLE DATA SHEET

a. Total acreage of the Village (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	1,148 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	114.2 acres	9.9%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	2.1 acres	0.2%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes	1.0 acre	0.1%
R-4	0.57 acres	
R-PO	0.21 acres	
R-3	0.23 acres	
(Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))		
e. Order-of-magnitude area available for development <sup>3</sup>	0.8 acres	0.1%
R-4	0.45 acres	
R-PO	0.17 acres	
R-3	0.18 acres	
(Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))		
f. Number of sites available for development (See Ex. E, Village of Pleasantville Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	5 sites	
g. Average size of sites (See Ex. E, Village of Pleasantville Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0.2 acres	
h. Theoretical number of multifamily units that can be developed as-of-right	10 units	
R-4	7 units	
R-PO	0 units	
R-3	3 units	
(See Ex. E, Village of Pleasantville Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))		
i. Average selling price for multifamily (condo) units <sup>4</sup> (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$275,000	

<sup>3</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>4</sup> Data provided by the County was rounded to the nearest five thousand.

j. Order-of-magnitude value for land, per condo unit <sup>5</sup>	\$55,000
(Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	
k. Order-of-magnitude total cost of development, per condo unit <sup>6</sup>	\$375,000
(Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	
l. Percent minority population	
2000 Census (2.9% Black, 7.4% Hispanic)	10%
2010 Census (4.2% Black, 11.7% Hispanic)	16%
(Ex. K, Racial Composition Table, Village of Pleasantville – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	
m. Percent minority population in the zoning districts permitting multifamily housing as-of-right	
2000 Census (0.1% Black, 9.0% Hispanic)	9% <sup>7</sup>
R-4 0.1% Black, 7.8% Hispanic	8%
R-PO 0.2% Black, 3.1% Hispanic	3%
R-3 0.2% Black, 18.1% Hispanic	18%
2010 Census (2.3% Black, 16.8% Hispanic)	19% <sup>8</sup>
R-4 1.7% Black, 5.4% Hispanic	7%
R-PO 5.1% Black, 16.8% Hispanic	22%
R-3 0.9% Black, 42.0% Hispanic	43%
(Ex. K, Racial Composition Table, Village of Pleasantville – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	
n. Municipal status under the Settlement based on percent minority population <sup>9</sup>	
2000 Census	Section 7(a)
2010 Census	Section 7(c)
(Ex. K, Racial Composition Table, Village of Pleasantville – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	

<sup>5</sup> Data provided by the County was rounded to the nearest five thousand.

<sup>6</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in Pleasantville are in the third quartile of the 31 eligible municipalities, total development costs in Pleasantville are likely to be lower than the \$375,000 average.

<sup>7</sup> Weighted average of the R-3, R-4 and R-PO districts.

<sup>8</sup> Weighted average of the R-3, R-4 and R-PO districts

<sup>9</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point l of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point l of this data sheet are likely higher than they would be for the purposes of determining eligibility.

o. Westchester County 80% area median income (AMI)

2000	\$66,500
2010	\$83,800

(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)

p. Number of families at or below 80% area median income (AMI)<sup>10</sup>

2000	484	26.0%
2007-2011	441	24.3%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income

2000	\$105,227
2007-2011	\$148,304

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015

73 units

Allocation Plan benchmark

2015 Allocation

129 units

Number of units created since 2000

56 units

(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. Q, Funding Advisory to Monitor, No. 20 (submitted June 27, 2013))

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<sup>10</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## TOWN OF POUND RIDGE

The Town of Pound Ridge's current zoning code does not appear to provide meaningful opportunities for the development of affordable housing to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> Multifamily development is permitted as-of-right only in commercial districts and only as part of mixed-use developments. Ex. F, Town of Pound Ridge Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use Regulations Nonresidential Districts, TOWN OF POUND RIDGE CODE § 113 Attachment 3, Sept. 1, 1998; Schedule of Use Regulations Nonresidential Districts, TOWN OF POUND RIDGE CODE § 113 Attachment 4, Sep. 1, 1998. These districts cover only a very small portion of the Town, and their identified development sites could accommodate only about 23 housing units. Ex. E, Town of Pound Ridge, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). In residential districts multifamily housing is allowed only by special permit and only in the form of senior housing or residential care facilities. Ex. F, Town of Pound Ridge Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). Accessory housing units are allowed only in two zoning districts. *Id.*; Schedule of Use Regulations Residential District, TOWN OF POUND RIDGE CODE § 113 Attachment 1, June 25, 1998; Schedule of Use Regulations Residential District, TOWN OF POUND RIDGE CODE § 113 Attachment 2, Sep. 1, 1998. There are mandates and (mainly for single-family homes) incentives for affordable housing. TOWN OF POUND RIDGE CODE § 113-100.

The Town of Pound Ridge's 2010 master plan recommended a review of the current zoning regulations to encourage future affordable housing development. *Comprehensive Plan Town of Pound Ridge, New York*, adopted Nov. 4, 2010. As of May 2013, the Town appears to have begun to follow through with this recommendation and has adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; TOWN OF POUND RIDGE CODE § 113-100 (2013).

Since 2000, only 12 affordable housing units have been built or approved in the Town. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). In contrast, the 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC"), estimated Pound Ridge's fair share of regional need at 184 affordable housing units. *Id.* The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

Town's success in providing for the most recent and best available estimate of its share of regional affordable housing need.

### **Model Zoning and County Benchmark**

- The Town has adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, TOWN OF POUND RIDGE CODE § 113-100.
- The Affordable Housing Allocation Plan produced in 2005 by the County's planning department called for 184 affordable housing units in Pound Ridge, but records indicate that only 12 have been built or approved since 2000, leaving a balance of 172 units. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

### **Zoning Ordinance**

- Multifamily housing development is permitted as-of-right in the three commercial districts (PB-A, PB-B and PB-C), but only as part of a mixed-use development. Ex. F, Town of Pound Ridge Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use Regulations Nonresidential Districts, TOWN OF POUND RIDGE CODE § 113 Attachment 3, Sept. 1, 1998; Schedule of Use Regulations Nonresidential Districts, TOWN OF POUND RIDGE CODE § 113 Attachment 4, Sep. 1, 1998. Multifamily development in the form of residential care facilities or senior citizen housing is allowed by special permit in four zoning districts.<sup>2</sup> Ex. F, Town of Pound Ridge Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use Regulations Residential District, TOWN OF POUND RIDGE CODE § 113 Attachment 1, June 25, 1998; Schedule of Use Regulations Residential District, TOWN OF POUND RIDGE CODE § 113 Attachment 2, Sep. 1, 1998; Schedule of Use Regulations Nonresidential Districts, TOWN OF POUND RIDGE CODE § 113 Attachment 3, Sep. 1, 1998.
- Mixed-use development (i.e., residences above stores) is permitted in the three commercial zoning districts. Ex. F, Town of Pound Ridge Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use Regulations Nonresidential Districts, TOWN OF POUND RIDGE CODE § 113 Attachment 3, Sep. 1, 1998; Schedule of Use Regulations Nonresidential Districts, TOWN OF POUND RIDGE CODE § 113 Attachment 4, Sep. 1, 1998.
- Accessory apartments are allowed in two of the four residential zoning districts. Ex. F, Town of Pound Ridge Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use Regulations Residential District, TOWN OF POUND RIDGE CODE § 113 Attachment 1, June 25, 1998; Schedule of Use Regulations Residential District, TOWN OF POUND RIDGE CODE § 113 Attachment 2, Sep. 1, 1998.

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<sup>2</sup> According the County's most recent zoning submission, the Town of Pound Ridge is considering amending its zoning code to remove the restriction of "senior citizen" in the special permit provision for multifamily housing in the R-1A and R-2A districts. Ex. I, Town of Pound Ridge Zoning Analysis, at 7, Eighth Zoning Submission, dated July 23, 2013.

### **Restrictive Practices**

- Multifamily housing is not permitted as-of-right in any residential district and is permitted by special permit only in the form of senior housing or residential care facilities. Ex. F, Town of Pound Ridge Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use Regulations Residential District, TOWN OF POUND RIDGE CODE § 113 Attachment 1, June 25, 1998; Schedule of Use Regulations Residential District, TOWN OF POUND RIDGE CODE § 113 Attachment 2, Sep. 1, 1998.
- In residential districts where multifamily housing is allowed only by special permit and only in the form of senior citizen housing or residential care facilities, the minimum lot size ranges from one to three acres, precluding the development of small multifamily developments. Schedule of Bulk Regulations, TOWN OF POUND RIDGE CODE § 113 Attachment 3, June 25, 1998.
- There are no minimum lot sizes for the commercial districts; however, the maximum coverage per building is 2,500 square feet, with a maximum height of two or three stories, which ensures that only a small number of multifamily units may be built per building. Schedule of Bulk Regulations, TOWN OF POUND RIDGE CODE § 113 Attachment 3, June 25, 1998.
- Two-family dwellings are prohibited throughout the Town. Ex. F, Town of Pound Ridge Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use Regulations Residential District, TOWN OF POUND RIDGE CODE § 113 Attachment 1, June 25, 1998; Schedule of Use Regulations Residential District, TOWN OF POUND RIDGE CODE § 113 Attachment 2, Sep. 1, 1998; Schedule of Use Regulations Nonresidential Districts, TOWN OF POUND RIDGE CODE § 113 Attachment 3, Sep. 1, 1998; Schedule of Use Regulations Nonresidential Districts, TOWN OF POUND RIDGE CODE § 113 Attachment 4, Sep. 1, 1998.
- Accessory apartments are prohibited in two of the four residential districts, and in the other two they may not contain more than two bedrooms. Ex. F, Town of Pound Ridge Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Schedule of Use Regulations Residential District, TOWN OF POUND RIDGE CODE § 113 Attachment 1, June 25, 1998; Schedule of Use Regulations Residential District, TOWN OF POUND RIDGE CODE § 113 Attachment 2, Sep. 1, 1998.
- A senior citizen housing development may not contain more than 50 dwelling units. TOWN OF POUND RIDGE CODE § 113-57.D. Preference is given to Pound Ridge residents and their parents. TOWN OF POUND RIDGE CODE § 113-57.K.

### **Incentives and Mandates**

- Within all residential developments of ten or more dwellings, at least 10 percent of the units must be affordable. TOWN OF POUND RIDGE CODE § 113-100.A.
- For affordable housing units, maximum rent and sales price, time period of affordability, unit appearance and integration, property restrictions to ensure continued affordability, minimum floor area, occupancy standards, resale requirements and lease renewal requirements are all prescribed as per the model zoning ordinance. TOWN OF POUND RIDGE CODE § 113-100.
- In the case of an affordable housing unit, the usually applicable minimum lot size for a single-family home is reduced by 25 percent. TOWN OF POUND RIDGE CODE § 113-100.K.

- No density bonuses or bulk requirement modifications are available for any housing type other than single-family homes. *Id.*
- The Planning Board, at its discretion, may waive up to 50 percent of the otherwise applicable recreation fee for an affordable housing unit. *Id.*
- Expedited review procedures are available for affordable housing developments. TOWN OF POUND RIDGE CODE § 113-100.N.

### **Zoning Map, Development Pattern and Development Potential**

- Multifamily housing (defined for this purpose as apartment, townhouse, or quadrplex development) occupies 0.9 percent of the Town's residential land area; two- and three-family housing occupies another 1.1 percent. Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010; Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).
- Three areas are within districts that allow multifamily development as-of-right, all of which are located in the hamlet of Scotts Corners. Ex. E, Town of Pound Ridge, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). These areas include only 0.3 percent of the Town's land area. Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).
- These areas contain three potential development sites, which could accommodate a total of 23 housing units as-of-right. Ex. E, Town of Pound Ridge, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).
- Approximately three-quarters of the Town is located either within the watershed of the New York City water supply system, and is thus subject to the *Rules and Regulations for the Protection of the New York City Water Supply and Its Sources* (more commonly known as the *Watershed Rules and Regulations*), or within the watersheds of the Norwalk and Stamford water supply systems. See *Priority Areas for New York City Land Acquisition & Stewardship Program* (1997), available at <http://www.ecolibary.org/page/DP4507>. This consideration, compounded by the absence of sewers within the Town, places considerable constraints on the density and location of housing development in the Town. Ex. I, Town of Pound Ridge Zoning Analysis, at 5, Eighth Zoning Submission, dated July 23, 2013.
- The estimated value of a condo unit in Pound Ridge (\$324,000) is lower than the estimated cost of development of a condo unit (\$375,000), which may appear to reduce the likelihood of new multifamily housing development, particularly on small sites where economies of scale are not possible, and may also reduce the likelihood that new affordable multifamily units would be able to be built without subsidies. Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012). The estimate may be unreliable, however, because it is based on the weighted average selling price for the other municipalities in the same region of the County (employing the County's definition of North, Central and South for what is meant as region) rather than on sales data for condo units in the Town itself. This is because no sales occurred during the sampling period for any of the relatively few multifamily housing units in the Town. Pound Ridge has the second highest median household income of the 31 municipalities subject to the Settlement, and it is therefore very likely that housing prices in the Town are actually quite high, at least for single-family homes.

## Master Plan

- The most recent comprehensive plan was adopted in 2010, completed by Frederick P. Clark Associates. *Comprehensive Plan Town of Pound Ridge, New York*, adopted Nov. 4, 2010. The plan assumes that the pattern of single-family development will continue and recommends maintaining the Town's semi-rural character. *Id.* at B-10. The plan does recommend that the Town review its current regulations and consider the creation of new provisions to encourage alternative forms of housing that promote opportunities for affordable housing while maintaining the existing character and scale of the Town. *Id.*

## Race, Ethnicity, and Socioeconomic Characteristics

- Pound Ridge's Black population was just one percent of the Town's total population in both 2000 and 2010, and the Hispanic population increased from slightly over 2 percent in 2000 to slightly under 5 percent in 2010. Ex. K, Racial Composition Table, Town of Pound Ridge – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 4 percent of the Town's population to 6 percent. *Id.*
- The Town of Pound Ridge's status under section 7(a) of the Settlement has not changed.<sup>3</sup>
- In districts that allow multifamily housing as-of-right, the population was generally too small (fewer than ten persons) in both 2000 and 2010 for the Census Bureau to report the racial and ethnic breakdown. *Id.*
- The Town's median family income rose from \$168,040 in 1999, as reported in the 2000 census, to \$237,500 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income rose from \$235,522 to \$257,577. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Town's families earning no more than 80 percent of Westchester County's Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – increased slightly from about 12.1 percent as of the 2000 census to about 16.4 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

## Implications

- The Town of Pound Ridge's current zoning code does not appear to provide meaningful opportunities for the development of affordable housing to meet the most recent and best available estimate of its share of regional affordable housing need.

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<sup>3</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.



- The Town has recently adopted the provisions of the County's model zoning ordinance, and it has a requirement for affordable housing within any residential development of at least ten units. The zoning ordinance provides density bonuses for affordable single-family homes and more modest incentives for all affordable housing.
- Multifamily housing is allowed as-of-right in commercial districts in a very limited portion of the Town, within Scotts Corners, and it is allowed only as part of a mixed-use development.
- Only three potential development sites have been identified in these districts, and they could accommodate only about 23 housing units as-of-right.
- The only opportunities for multifamily housing in residential districts, and the only incentives for affordable housing, are restricted to senior housing and residential care facilities and are allowable only by special permit.
- Accessory housing is allowed only in two of the four residential districts.
- The estimated average value of a condo unit in Pound Ridge (\$324,000) is lower than the estimated cost of development of a condo unit (\$375,000), which may appear to reduce the likelihood of new multifamily housing development, particularly on small sites where economies of scale are not possible, and may also reduce the likelihood that affordable multifamily units would be built without subsidies.
- Additional actions will be needed for the Town to make much further progress towards meeting its share of regional affordable housing need. Considerable creativity will need to be employed with any strategy involving new housing development in Pound Ridge, due to the constraints imposed by its location within the watersheds of the New York City, Norwalk and Stamford water supply systems, compounded by the absence of sewers in the Town. Some solutions may emerge should the City and State of New York make or agree to infrastructure improvements to address septic and package plant failures in one or another area. In the absence of such action, solutions might involve the development of affordable housing in locations where sewage is not an issue, that is, within the quarter of the Town not located in the water supply system watersheds, or low-density development models, such as allowing two-family housing with one affordable unit instead of a similarly sized single-family home. Another measure would be the elimination of the restriction that multifamily housing in some locations be for senior citizens only, a change that the Town is reportedly considering.
- Given the watershed constraints and the low density and semi-rural nature of Pound Ridge, options involving accessory apartments and cottage-style housing might be appealing. Accessory housing also takes advantage of the embedded investment in property, e.g., an individual property owner adding a unit to the house or detached garage, with no added cost for site preparation, site acquisition, etc.

## POUND RIDGE DATA SHEET

a. Total acreage of the Town (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	14,771 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	43.8 acres	0.3%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	8.7 acres	0.1%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes	4.5 acres	0.03%
PB-A	1.13 acres	
PB-B	0.25 acres	
PB-C	3.07 acres	
(Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))		
e. Order-of-magnitude area available for development <sup>4</sup>	3.6 acres	0.02%
PB-A	0.91 acres	
PB-B	0.20 acres	
PB-C	2.45 acres	
(Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))		
f. Number of sites available for development (See Ex. E, Town of Pound Ridge Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	3 sites	
g. Average size of sites (See Ex. E, Town of Pound Ridge Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	1.2 acres	
h. Theoretical number of multifamily units that can be developed as-of-right	23 units	
PB-A	0 units	
PB-B	0 units	
PB-C	23 units	
(See Ex. E, Town of Pound Ridge Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))		
i. Average selling price for multifamily (condo) units <sup>5</sup> (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$324,000	

<sup>4</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>5</sup> Because data was not provided for the municipality, the weighted average selling price for the other municipalities in the same region of the County was calculated and used, employing the County's definition of North, Central and South for what is meant as region.

j. Order-of-magnitude value for land, per condo unit <sup>6</sup> (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$ 49,000
k. Order-of-magnitude total cost of development, per condo unit (Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	\$375,000 <sup>7</sup>
l. Percent minority population	
2000 Census (1.2% Black, 2.4% Hispanic)	4%
2010 Census (1.3% Black, 4.5% Hispanic)	6%
(Ex. K, Racial Composition Table, Town of Pound Ridge – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	
m. Percent minority population in the zoning districts permitting multifamily housing as-of-right <sup>8</sup>	
2000 Census	
PB-A	N/A
PB-B	N/A
PB-C	N/A
2010 Census	
PB-A	N/A
PB-B (1.2% Black, 3.2% Hispanic)	4%
PB-C	N/A
(Ex. K, Racial Composition Table, Town of Pound Ridge – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	

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<sup>6</sup> Data provided by the County was rounded to the nearest five thousand.

<sup>7</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in Pound Ridge are in the lowest quartile of the 31 eligible municipalities, total development costs in Pound Ridge are likely to be lower than the \$375,000 average.

<sup>8</sup> If the total population is fewer than ten persons, the Census Bureau does not report racial breakdown. This was the case for all three districts in 2000 and for two of the three districts in 2010. Although these zoning districts allow residential apartments, there is little actual residential use. A total of 22 people were enumerated in these districts in 2000, and a total of 27 were enumerated in 2010. In 2010, 12 residents lived in the PB-B district, and 15 lived in the other two districts.

n. Municipal status under the Settlement based on percent minority population<sup>9</sup>  
 2000 Census Section 7(a)  
 2010 Census Section 7(a)  
 (Ex. K, Racial Composition Table, Town of Pound Ridge – 2000 & 2010 Census Data  
 (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)  
 2000 \$66,500  
 2010 \$83,800  
 (Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban  
 Development)

p. Number of families at or below 80% area median income (AMI)<sup>10</sup>  
 2000 171 12.1%  
 2007-2011 256 16.4%  
 (Profile of Selected Economic Characteristics: 2000 Census; Selected Economic  
 Characteristic: 2007-2011 American Community Survey 5-Year Estimates)

q. Median family income  
 2000 \$168,040  
 2007-2011 \$237,500  
 (Profile of Selected Economic Characteristics: 2000 Census; Selected Economic  
 Characteristic: 2007-2011 American Community Survey 5-Year Estimates)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark 172 units  
 2015 Allocation 184 units  
 Number of units created since 2000 12 units  
 (See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-  
 2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

<sup>9</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

<sup>10</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## CITY OF RYE

The City of Rye's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the City to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> A wide variety of housing typologies are permitted as-of-right in some districts, including multifamily housing, mixed-use development, and accessory apartments; however, the districts that permit multifamily housing as-of-right are largely built out, so that the available development sites in these districts can accommodate only an estimated 38 housing units. Ex. F, City of Rye Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); CITY OF RYE CODE § 197-86; Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012). The zoning ordinance also provides no requirements or incentives for affordable housing. Ex. F, City of Rye Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Zoning, CITY OF RYE CODE Ch. 197.

To date, there is little or no evidence of that the City has taken steps to reform its zoning code or otherwise develop affordable housing. The City has not adopted the provisions of the model ordinance. It has taken the position that prior amendments to its zoning code deal effectively with the same subject matter included in the model provisions. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, CITY OF RYE CODE Ch. 197 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). However, the City's zoning ordinance appears to lack mandates and incentives such as density bonuses for the development of affordable housing. Ex. F, City of Rye Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Zoning, CITY OF RYE CODE Ch. 197.

Rye's zoning restrictions and lack of requirements or incentives for affordable housing may also inhibit its ability to meet the most recent and best available estimate of its share of regional affordable housing need. A total of 27 affordable housing units have been built or approved in Rye since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") estimated Rye's fair share of regional need at 167 affordable housing units. *Id.* The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the City's success in providing for the most recent and best available estimate of its share of regional affordable housing need.

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

### **Model Zoning and County Benchmark**

- The City has not adopted the provisions of the model ordinance. It has taken the position that prior amendments to its zoning code deal effectively with the same subject matter included in the model provisions. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, CITY OF RYE CODE Ch. 197 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan estimated the City's share of regional affordable housing need at 167 affordable housing units in Rye, of which roughly one-sixth (27 units) have been built or approved. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

### **Zoning Ordinance**

- Multifamily housing is permitted as-of-right in nine of the City's 29 zoning districts (RA-1, RA-2, RA-3, RA-4, RA-5, B-1, B-2, RFWP and LPD-A). Ex. F, City of Rye Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); CITY OF RYE CODE § 197-86. In the RA-5 district, however, multifamily housing must be dedicated to senior citizens and handicapped residents, and in the LPD-A district multifamily housing is restricted to two historic properties and cannot contain more than nine multifamily dwelling units. Ex. F, City of Rye Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); CITY OF RYE CODE §§ 197-2, 197-86; Table A: Residence Districts, CITY OF RYE CODE § 197 Attachment 1, Oct. 1, 2011. Multifamily housing is allowed by special permit in two additional zoning districts. Ex. F, City of Rye Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); CITY OF RYE CODE § 197-86; Table A: Residence Districts, CITY OF RYE CODE § 197 Attachment 1, Oct. 1, 2011.
- Mixed-use development (i.e., residences above stores) is permitted as-of-right in four zoning districts. Ex. F, City of Rye Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); CITY OF RYE CODE § 197-86.
- Two-family dwellings are permitted as-of-right in ten zoning districts. Ex. F, City of Rye Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); CITY OF RYE CODE § 197-86.
- Accessory apartments are permitted as-of-right in 15 zoning districts. Ex. F, City of Rye Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); CITY OF RYE CODE § 197-86.
- *Moderate-income housing* is a defined term within the zoning ordinance. The term refers to housing in which at least 85 percent of the units are available at below-market rates and the purchasers of which shall have incomes of no more than 80 percent of the Westchester County Area Median Income (AMI), adjusted for household size, as determined by the U.S. Department of Housing and Urban Development. CITY OF RYE CODE § 197-86. The only mention of the term is as a permitted use on Cottage Street or Theodore Fremd Avenue in the RA-1 district. *Id.* No mandates, incentives, requirements or restrictions apply to moderate-income housing. *Id.*

### **Restrictive Practices**

- Multifamily buildings may contain no more than six dwelling units per floor and cannot exceed 120 feet in maximum horizontal dimension. Ex. F, City of Rye Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); CITY OF RYE CODE § 197-86.

### **Incentives and Mandates**

- No incentives or mandates for affordable housing development are provided. Ex. F, City of Rye Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Zoning, CITY OF RYE CODE Ch. 197.

### **Zoning Map, Development Pattern and Development Potential**

- Twenty-one (21) areas are within districts that allow multifamily housing as-of-right. Ex. E, City of Rye, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). The areas include 5 percent of the City's land area, but they are almost entirely built out. *Id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).
- The areas contain 11 small potential development sites, averaging between a tenth and a fifth of an acre. *Id.* at City of Rye, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). In total the available development sites could accommodate an estimated 38 housing units. *Id.* at City of Rye, Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).
- Most of the zoning districts that permit multifamily development have relatively high percentages of Black and Hispanic residents. The RA-2 district, which can accommodate half of the estimated 38 housing units, was 16 percent Black and Hispanic as of the 2000 census, whereas the City as a whole was 6 percent minority; but the difference had narrowed as of the 2010 Census, when the district was 13% minority and the City was 8% minority. Ex. K, Racial Composition Table, City of Rye – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The B-1 and B-2 districts, which can accommodate three-quarters of the remaining units, were 21 percent and 15 percent minority respectively in 2000 and were 17 percent and 13 percent minority in 2010. *Id.* The remaining sites are in the RA-1 district, which was only 3 percent minority in 2000 but had risen to 23 percent minority in 2010. *Id.*
- Approximately 7.6 percent of the City's residential land area is occupied by multifamily housing (defined for this purpose as apartments, townhouses and quadrplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. An additional 2.1 percent is occupied by two- and three-family housing. *Id.*
- With an estimated average price of \$600,000 per condo unit, housing values appear to be high enough to make new multifamily housing development attractive. Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012). If density incentives were provided, market-rate housing values would likely be sufficient to spur mixed-income development, without the need for financial subsidies.

## Master Plan

- The most recent comprehensive plan was adopted in 1985, completed by RPPW. *City of Rye, NY 1985 Development Plan*, adopted April 23, 1985. The plan encourages the provision of a variety of housing typologies, including limited multifamily development and accessory apartments. *Id.* at 11. However, the plan also recommends maintaining at least twice the number of ownership units as rental units, and at least twice as many single-family units as multiple dwelling units. *Id.* at 11.

## Race, Ethnicity and Socioeconomic Characteristics

- Rye's Black population largely remained the same with 1.3 percent of the City's total population in 2000 and 1.5 percent in 2010, but the Hispanic population increased from 4.8 percent to 6.5 percent of the City's total population. (Ex. K, Racial Composition Table, City of Rye – 2000 & 2010 Census Data (submitted Aug. 15, 2012)). The combined Black and Hispanic population increased from 6 percent of the City's total population to 8 percent. *Id.*
- Despite this increase, the City of Rye's status under section 7(a) of the Settlement remains the same.<sup>2</sup>
- In districts that allow multifamily housing as-of-right, the combined Black and Hispanic population remained the same at 14 percent in 2000 and 2010. *Id.*
- The City's median family income rose from \$133,231 in 1999, as reported in the 2000 census, to \$210,824 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income increased from \$186,735 to \$228,646. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the City's families earning no more than 80 percent of Westchester County's Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – decreased from about 20 percent as of the 2000 census to about 16.3 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

## Implications

- The City of Rye's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the City to meet the most recent and best available estimate of its share of regional affordable housing need.
- A wide variety of housing typologies are permitted as-of-right in some locations, including multifamily housing, mixed-use development, and accessory

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.



apartments; however, the districts that permit multifamily housing as-of-right are largely built out, so that the available development sites in these districts can accommodate only an estimated 38 housing units.

- The absence of any requirements or incentives for affordable housing reduces the likelihood that new multifamily housing will be affordable.
- With an estimated average price of \$600,000 per condo unit, housing values appear to be high enough to make multifamily housing development attractive. If density incentives were provided, market-rate housing values are probably sufficient to spur mixed-income development, without the need for financial subsidies. The very high value of apartments and condo units in the City should be sufficient to promote 80/20 mixed-income housing (which is more aggressive than the 90/10 mix that represents the maximum permitted ratio of market-rate to affordable units under the County's model zoning ordinance.) The 80/20 ratio would provide less development pressure than 90/10 mixed income housing, and unlike 90/10 developments would be eligible for federal tax incentives.
- Additional actions will probably be needed for the City to make much further progress towards providing its share of regional affordable housing need. These might include, in some combination, adopting the provisions of the County's model zoning ordinance, providing mandates and density incentives for affordable housing, mapping additional areas where multifamily housing is permitted as-of-right, and providing opportunities for additional types of development (such as quadraplexes or cottage-style housing).

## RYE DATA SHEET

a. Total acreage of the City (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	3,738 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	201.2 acres	5.4%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	2.3 acres	0.1%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes	2.0 acres	0.1%
RA-2	1.13 acres	
B-1	0.20 acres	
B-2	0.18 acres	
RA-3	0.13 acres	
RA-1	0.33 acres	
(Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))		
e. Order-of-magnitude area available for development <sup>3</sup>	1.6 acres	0.04%
RA-2	0.91 acres	
B-1	0.16 acres	
B-2	0.14 acres	
RA-3	0.10 acres	
RA-1	0.26 acres	
(Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))		
f. Number of sites available for development (See Ex. E, City of Rye Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	11 sites	
g. Average size of sites (See Ex. E, City of Rye Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0.14 acres	
h. Theoretical number of multifamily units that can be developed as-of-right	38 units	
RA-2	19 units	
B-1	5 units	
B-2	9 units	
RA-3	0 units	
RA-1	5 units	
(See Ex. E, City of Rye Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))		

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<sup>3</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

i. Average selling price for multifamily (condo) units <sup>4</sup> (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$600,000
j. Order-of-magnitude value for land, per condo unit <sup>5</sup> (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$180,000
k. Order-of-magnitude total cost of development, per condo unit <sup>6</sup> (Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	\$375,000
l. Percent minority population	
2000 Census (1.3% Black, 4.8% Hispanic)	6%
2010 Census (1.5% Black, 6.5% Hispanic)	8%
(Ex. K, Racial Composition Table, City of Rye – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	
m. Percent minority population in the zoning districts permitting multifamily housing as-of-right	
2000 Census (1.6% Black, 12.0% Hispanic)	14% <sup>7</sup>
RA-1 0.5% Black, 2.9% Hispanic	3%
RA-2 2.7% Black, 12.9% Hispanic	16%
RA-3 0.3% Black, 10.6% Hispanic	11%
RA-4 1.2% Black, 2.1% Hispanic	3%
RA-5 <sup>8</sup>	N/A
B-1 2.0% Black, 18.6% Hispanic	21%
B-2 3.2% Black, 12.0% Hispanic	15%
RFWP 8.6% Black, 18.4% Hispanic	27%
LPD-A <sup>9</sup>	N/A

<sup>4</sup> Data provided by the County was rounded to the nearest thousand.

<sup>5</sup> Data provided by the County was rounded to the nearest thousand.

<sup>6</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in Rye are in the highest quartile of the 31 eligible municipalities, total development costs in Rye are likely to be higher than the \$375,000 average. The spread between housing prices and development costs likely remains considerable.

<sup>7</sup> Weighted average of the RA-1, RA-2, RA-3, RA-4, B-1, B-2 and RFWP districts.

<sup>8</sup> If the total population is fewer than ten persons, the Census Bureau does not report racial breakdown.

<sup>9</sup> Data was not provided for this district.

2010 Census	(2.4% Black, 11.4% Hispanic)	14% <sup>10</sup>
RA-1	7.3% Black, 15.8% Hispanic	23%
RA-2	4.1% Black, 9.3% Hispanic	13%
RA-3	1.3% Black, 12.0% Hispanic	13%
RA-4	0.5% Black, 3.1% Hispanic	4%
RA-5 <sup>11</sup>		N/A
B-1	2.3% Black, 15.0% Hispanic	17%
B-2	6.3% Black, 6.2% Hispanic	13%
RFPW	8.7% Black, 19.7% Hispanic	28%
LPD-A <sup>12</sup>		N/A

(Ex. K, Racial Composition Table, City of Rye – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

n. Municipal status under the Settlement based on percent minority population<sup>13</sup>

2000 Census Section 7(a)

2010 Census Section 7(a)

(Ex. K, Racial Composition Table, City of Rye – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)

2000 \$66,500

2010 \$83,800

(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)

p. Number of families at or below 80% area median income (AMI)<sup>14</sup>

2000 807 20.0%

2007-2011 667 16.3%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

<sup>10</sup> Weighted average of the RA-1, RA-2, RA-3, RA-4, B-1, B-2 and RFPW districts.

<sup>11</sup> If the total population is fewer than ten persons, the Census Bureau does not report racial breakdown.

<sup>12</sup> Data was not provided for this district.

<sup>13</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

<sup>14</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

q. Median family income

2000	\$133,231
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2007-2011	\$210,824
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(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015	140 units
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Allocation Plan benchmark

2015 Allocation	167 units
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Number of units created since 2000	27 units
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(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

## VILLAGE OF RYE BROOK

The Village of Rye Brook's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> Rye Brook has adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; VILLAGE OF RYE BROOK CODE § 250.26.1 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013). Zoning districts that permit multifamily housing as-of-right are almost entirely built out, with available development sites that can accommodate only an estimated 38 housing units. Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012); *id.* at Village of Rye Brook Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). The Village intends, however, to accommodate affordable housing by mapping the floating Fair and Affordable Housing (FAH) district in response to developer requests, and a study performed by a planning firm in 2011 identified 20 potential affordable housing sites, two of which have since been approved for affordable housing developments. VILLAGE OF RYE BROOK CODE § 250-26.1; *Affordable Housing Discussion Paper*, at 3-13, adopted Jan. 11, 2011; Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013). A developer is seeking approvals for 13 units of affordable housing. Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013). It should be noted, however, that the Village prohibits both mixed-use development (except in the floating FAH district) and accessory apartments. Ex. F, Village of Rye Brook Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF RYE BROOK CODE Ch. 250.

Although the zoning code provides opportunity for affordable housing development, the Village would still need to build a significant number of units to meet the most recent and best available estimate of its share of regional affordable housing need. A total of 64 affordable housing units have been built or approved in the Village since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013). The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") estimated Rye Brook's fair share of regional need at 171 affordable housing units. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Village's success in

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

providing for the most recent and best available estimate of its share of regional affordable housing need.

### **Model Zoning and County Benchmark**

- Rye Brook has adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; VILLAGE OF RYE BROOK CODE § 250.26.1; Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan estimated the Village's share of regional affordable housing need at 171 affordable housing units in Rye Brook. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). Since 2000, 64 affordable housing units have been built or approved in the Village, including 48 units listed in the most recent AHAP status report and a more recently approved 16-unit affordable development. *Id.*; Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013).
- A developer is seeking approvals for 13 units of affordable housing at a site on North Ridge Street. Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013).

### **Zoning Ordinance**

- Multifamily housing is permitted as-of-right in the Restricted Multifamily (RA-1) district, the Neighborhood Retail (C1) district, the Planned Neighborhood Retail (C1-P) district, the Planned Urban Development (PUD) floating district and the Fair and Affordable Housing (FAH) district. Ex. F, Village of Rye Brook Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF RYE BROOK CODE §§ 250-26, 250-31, 250-32, 250.26.1. Multifamily housing is also permitted as-of-right in a sixth district, the Hotel (H-1) district, but only on existing parcels of 15 to 20 acres as part of a conservation subdivision. VILLAGE OF RYE BROOK CODE § 250-34. Multifamily housing is allowed by special permit in one additional district. Ex. F, Village of Rye Brook Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF RYE BROOK CODE § 250-30.
- Mixed-use development (i.e., residences above stores) is not permitted in any district, except that mixed-use developments are permitted in the FAH floating district. Ex. F, Village of Rye Brook Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF RYE BROOK CODE § 250-26.1.F(1)(d).
- Two-family dwellings are permitted as-of-right in five zoning districts and by special permit in one zoning district. Ex. F, Village of Rye Brook Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF RYE BROOK CODE §§ 250-25, 250-26, 250-30, 250-31, 250-32,
- Accessory apartments are not permitted in any district. Ex. F, Village of Rye Brook Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF RYE BROOK CODE Ch. 250.

- Senior housing developments are allowed by special permit in the PUD floating zone, either immediately adjacent to or south of Westchester Avenue only. Ex. F, Village of Rye Brook Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF RYE BROOK CODE § 250-36.C.

### **Restrictive Practices**

- Accessory apartments and mixed-use development are prohibited throughout the Village, except that mixed-use developments are permitted in the FAH floating district. Ex. F, Village of Rye Brook Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF RYE BROOK CODE § 250-26.1.F(1)(d).

### **Incentives and Mandates**

- At least 25 percent of senior housing units in the PUD floating district must be affordable. VILLAGE OF RYE BROOK CODE § 250-36.N. As is noted above, senior housing developments are allowed only by special permit, and only either immediately adjacent to or south of Westchester Avenue. VILLAGE OF RYE BROOK CODE § 250-36. VILLAGE OF RYE BROOK CODE § 250 VILLAGE OF RYE BROOK CODE § 250
- At least 50 percent of all units in developments of two or more dwelling units in the FAH floating district must be affordable; however, FAH is a floating district that is mapped only upon a developer's request. VILLAGE OF RYE BROOK CODE § 250-26.1.
- Within any residential district, affordable housing mandates exist for any site plan or subdivision application allowing 11 or more units or lots. VILLAGE OF RYE BROOK CODE § 209-3.F. There is no affordability requirement for the first ten units, but at least one of each additional ten units must be affordable. *Id.* The mandate does not apply in the C1 and C1-P retail districts, which are two of the districts that allow multifamily housing. *Id.*
- There are no as-of-right incentives for affordable housing, insofar as the only incentives are available in the FAH and PUD districts, which are floating zones mapped by zoning map amendment in response to developer proposals. VILLAGE OF RYE BROOK CODE § 250-26.1, 250-36. Within these districts the incentives consist of the Board's ability, at its discretion, to waive or modify dimensional and bulk requirements. VILLAGE OF RYE BROOK CODE § 250-26.1.F(3), 250-36.

### **Zoning Map, Development Pattern and Development Potential**

- At the time of the County Planning Department's analysis in 2012, four areas were within districts in which multifamily housing is permitted as-of-right, containing 16 percent of the Village's land area. Ex. E, Village of Rye Brook Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-B Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012). Two FAH districts have since been mapped. They do not affect the analysis, however, because these districts were mapped specifically to accommodate proposed developments, and they do not contain additional available development sites.
- Three of the four areas are fully built out. *Id.* at Village of Rye Brook Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at



- Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). Only one area zoned C1 has available development sites. *Id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). That area has two available development sites, which are adjacent to one another, and which together can accommodate an estimated total of 38 housing units. *Id.* at Village of Rye Brook Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012).
- All of the identified sites are in a district that does not provide mandates for affordable housing. Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012); VILLAGE OF RYE BROOK CODE § 250-32.
  - The two adjacent lots are in a location that is quite well-suited for multifamily housing. The site is adjacent to a commercial strip and across the street from Port Chester Middle School. *Rye Brook, NY*, Google Maps, *available at* <https://maps.google.com>.
  - In the C1 district, where the two available lots are located, nearly one-third of residents were Hispanic in 2000, and more than 40 percent were Hispanic in 2010. Ex. K, Racial Composition Table, Village of Rye Brook – 2000 & 2010 Census Data (submitted Aug. 15, 2012).
  - F. P. Clark Associates prepared an “Affordable Housing Discussion Paper” for the Village in 2011 to identify potential future affordable housing sites. *Affordable Housing Discussion Paper*, adopted Jan. 11, 2011. Unlike the County Department of Planning, the planning firm considered not just vacant sites but also occupied sites that could be candidates for redevelopment or adaptive reuse. *Id.* at 2. Also, unlike the County Department of Planning, the planning firm did not concern itself with the existing zoning since it was assumed that any future development would involve a mapping of the FAH zone. *Id.* at 1-2. The discussion paper identified 20 sites, which could accommodate an unknown number of housing units. *Id.* at 3-13. Development proposals have been approved for two of the sites, and a developer is seeking approvals to construct 13 affordable housing units on a third site. Ex. G, *Westchester County 2013 1Q Report*, at App’x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013). That leaves 17 identified potential development or adaptive reuse sites. *Compare id.*, with *Affordable Housing Discussion Paper*, at 3-13, adopted Jan. 11, 2011. No analysis has been done to determine whether this list includes the development sites identified by the County.
  - Only 1.3 percent of the Village’s residential land area is currently occupied by multifamily housing (defined for this purpose as apartments, townhouses and quadraplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. An additional 4.7 percent is currently occupied by two- and three-family housing. *Id.*
  - The estimated average price of a condo unit in Rye Brook (\$233,000) is well below the estimated cost of development of a condo unit (\$375,000), which may appear to reduce the likelihood of new multifamily housing development, particularly on small sites where economies of scale are not possible, and may also reduce the likelihood that new affordable multifamily units would be built without subsidies. Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012)

## Master Plan

- The Village of Rye Brook suspended work on its first comprehensive plan in 2008 due to economic concerns. *Comprehensive Plan – OLD*, Village of Rye Brook, available at <http://www.ryebrook.org>.
- The Village did develop a Vision Plan in 2000 with consultants Frederick P. Clark Associates. *Village of Rye Brook Vision Plan*, adopted Dec. 2000. The Vision Plan recommends encouraging mixed-use development to provide a variety of housing options for seniors and younger residents. *Id.* at 20. This recommendation has not been implemented.

## Race, Ethnicity and Socioeconomic Characteristics

- Rye Brook's Black population increased slightly from 1 percent of the Village's total population in 2000 to 1.6 percent in 2010, and the Hispanic population increased from 5.4 percent to 10.9 percent of the Village's total population. (Ex. K, Racial Composition Table, Village of Rye Brook – 2000 & 2010 Census Data (submitted Aug. 15, 2012)). The combined Black and Hispanic population increased from 6 percent of the Village's total population to 13 percent. *Id.*
- This increase adjusts the Village of Rye Brook's status under section 7(a) of the Settlement to section 7(c).<sup>2</sup>
- In districts that allow multifamily housing as-of-right, the combined number of Black and Hispanic population decreased from 8 percent in 2000 to 7 percent in 2010. *Id.*
- The Village's median family income rose from \$111,287 in 1999, as reported in the 2000 census, to \$175,877 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. See *Profile of Selected Economic Characteristics: 2000 Census*; *Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*. Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income declined from \$155,978 to \$190,745. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Village's families earning no more than 80 percent of Westchester County's Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – decreased from about 24.2 percent as of the 2000 census to about 23.7 percent as of the 2007-2011 American Community Survey. See *Profile of Selected Economic Characteristics: 2000 Census*; *Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*.

## Implications

- The Village of Rye Brook's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

- Rye Brook has adopted the provisions of the County model affordable housing ordinance and provides mandates for affordable housing in all residential districts. Two of the districts permitting multifamily housing as-of-right are retail districts in which no mandates apply.
- Multifamily housing is allowed as-of-right in a fairly high percentage of the Village's area, but the districts are almost entirely built out. The only identified development sites in these districts are two adjacent lots, which, though they are in a location that is well-suited for multifamily or affordable housing, can accommodate only an estimated 38 housing units.
- No affordable housing mandates or incentives apply to the identified sites.
- In 2011 a planning consulting firm performed a search for the Village to identify potential affordable housing development or reuse sites, which, unlike the search performed for this report, considered occupied as well as vacant sites and did not concern itself with the sites' existing zoning. The firm identified 20 potential sites, including two for which affordable housing projects have since been approved (included within the 64 units cited above), and including a third for which a developer is now seeking approvals for 13 affordable housing units.
- Accessory housing units are prohibited throughout the Village, and mixed-use development is allowed only in one floating zone.
- The estimated average price of a condo unit in Rye Brook is well below the estimated cost of development of a condo unit, which may appear to reduce the likelihood of new multifamily housing development, particularly on small sites where economies of scale are not possible, and may also reduce the likelihood that affordable multifamily units would be built without subsidies.
- Additional actions will probably be needed for the Village to make much further progress towards satisfying its share of regional affordable housing need. These might include, in some combination, extending the mandates and incentives for affordable housing to all districts that allow multifamily housing, mapping additional areas where multifamily housing is permitted as-of-right, permitting mixed-use development (as recommended in the Vision Plan of 2000), permitting accessory housing units (especially if they were allowed in accessory buildings, such as existing or "faux" garages), and providing opportunities for additional types of development (such as quadraplexes or cottage-style housing).
- Even with additional Village actions, affordable housing will remain difficult without assistance in the form of financial subsidies and marketing (such as the maintenance of a Countywide registry of affordable units).

## RYE BROOK DATA SHEET

a. Total acreage of the Village (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	2,224 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	344.2 acres	15.5%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	3.7 acres	0.2%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes (Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))	1.5 acres	0.1%
e. Order-of-magnitude area available for development <sup>3</sup> (Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))	1.2 acres	0.1%
f. Number of sites available for development (See Ex. E, Village of Rye Brook Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	2 sites	
g. Average size of sites (See Ex. E, Village of Rye Brook Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0.6 acres	
h. Theoretical number of multifamily units that can be developed as-of-right (See Ex. E, Village of Rye Brook Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	38 units	
i. Average selling price for multifamily (condo) units <sup>4</sup> (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$233,000	
j. Order-of-magnitude value for land, per condo unit <sup>5</sup> (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$35,000	
k. Order-of-magnitude total cost of development, per condo unit <sup>6</sup> (Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	\$375,000	

<sup>3</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>4</sup> Data provided by the County was rounded to the nearest thousand.

<sup>5</sup> Data provided by the County was rounded to the nearest thousand.

<sup>6</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in Rye Brook are in the lowest quartile of the 31 eligible municipalities, total development costs in Rye Brook are likely to be lower than the \$375,000 average.

I. Percent minority population

2000 Census	(1.0% Black, 5.4% Hispanic)	6%
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2010 Census	(1.6% Black, 10.9% Hispanic)	13%
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(Ex. K, Racial Composition Table, Village of Rye Brook – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

m. Percent minority population in the zoning districts permitting multifamily housing as-of-right<sup>7</sup>

2000 Census	(1.1% Black, 6.5% Hispanic)	8% <sup>8</sup>
C1	3.8% Black, 29.3% Hispanic	33%
C1-P	0.8% Black, 21.3% Hispanic	22%
RA-1	1.5% Black, 1.4% Hispanic	3%
PUD	0.6% Black, 3.0% Hispanic	4%

2010 Census	(1.1% Black, 6.1% Hispanic)	7% <sup>9</sup>
C1	6.8% Black, 41.3% Hispanic	42%
C1-P <sup>10</sup>		N/A
RA-1	0.2% Black, 4.5% Hispanic	5%
PUD	0.9% Black, 4.3% Hispanic	5%

(Ex. K, Racial Composition Table, Village of Rye Brook – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

n. Municipal status under the Settlement based on percent minority population<sup>11</sup>

2000 Census	Section 7(a)
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2020 Census	Section 7(c)
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(Ex. K, Racial Composition Table, Village of Rye Brook – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)

2000	\$66,500
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2010	\$83,800
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(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)

<sup>7</sup> The FAH district is not included because it did not exist as of the most recent decennial census.

<sup>8</sup> Weighted average of the C1, C1-P, RA-1 and PUD districts.

<sup>9</sup> Weighted average of the C1, RA-1 and PUD districts.

<sup>10</sup> 2010 Census data was not reported for this district.

<sup>11</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

p. Number of families at or below 80% area median income (AMI) <sup>12</sup>		
2000	591	24.2%
2007-2011	616	23.7%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income	
2000	\$111,287
2007-2011	\$175,877

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark	107 units
2015 Allocation	171 units
Number of units created since 2000	64 units

(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

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<sup>12</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## VILLAGE OF SCARSDALE

The Village of Scarsdale's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> The opportunities for affordable housing are diminished, at least in part, by the limited acreage zoned for as-of-right multifamily housing development. The Village allows a range of housing typologies as-of-right in select locations, including multifamily housing and mixed-use development. Ex. F, Town/Village of Scarsdale Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF SCARSDALE CODE §§ 310-9, 310-10, 310-11, 310-12. However, the areas permitting multifamily housing amount to 0.4 percent of the Village's total acreage, and they are completely built out, with no sites available for new multifamily development. Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012). Alternatives to multifamily housing as a source of affordable housing are also restricted: accessory housing units are not permitted. Ex. F, Town/Village of Scarsdale Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF SCARSDALE CODE §§ 310-2, 310-11.A, 310-12.B(1)(b), 310-12.B(2)(b), 310-12.B(4)(b)(i), 310-12.B(5)(b).

Scarsdale has, however, made progress in reforming its zoning code. The Village's zoning code incorporates most of the provisions of the County's model affordable housing zoning ordinance, requiring the inclusion of affordable units in all residential developments of five or more units, but, contrary to the model ordinance, providing no incentives for affordable housing other than expedited review. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; VILLAGE OF SCARSDALE CODE Ch. 310 Art. XVII (2011); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).

Expanding the areas zoned for as-of-right multifamily housing development and loosening restrictions on alternative sources of affordable housing, such as accessory apartments and townhouses, would further increase the Village's ability to meet the most recent and best available estimate of its share of regional affordable housing need. The HOC's 2005 Affordable Housing Allocation Plan estimated the Village's share of regional affordable housing need at 160 affordable housing units. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). Despite being given multiple opportunities to respond to a survey conducted by the County Planning Department, the Village has not reported the construction of any affordable housing units since 2000, though the County has reported that there are currently proposals to construct five affordable housing units (four of which would be single room occupancy (SRO) units) pursuant to the County's obligations under the Settlement. *Id.*; Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013). The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Village's success in providing for the most recent and best available estimate of its share of regional affordable housing need.

### **Model Zoning and County Benchmark**

- The Village has adopted most of the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; VILLAGE OF SCARSDALE CODE Ch. 310 Art. XVII; Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013). It requires the inclusion of affordable units in all residential developments of five or more units but provides no incentives for affordable housing other than expedited review. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; VILLAGE OF SCARSDALE CODE Ch. 310 Art. XVII (2011); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan estimated the Village's share of regional affordable housing need at 160 affordable housing units in Scarsdale, but there is no indication that any affordable housing units have been built or approved since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).
- Developers are currently seeking approvals to construct five affordable housing units in Scarsdale: four affordable SROs as part of a 138-unit development on Saxon Woods Road and one affordable unit as part of an 11-unit development on Weaver Street. Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013).

### **Zoning Ordinance**

- Multifamily development is permitted as-of-right in seven of the Village's 18 zoning districts (the Residence C (Res C), Planned Unit Development – 1 (PUD-1), Planned Unit Development – 0.8 (PUD-.8), Business A, Village Center Retail 2.0 (VCR-2.0), Village Center Retail 1.0 (VCR-1.0) and Village Center Office 2.0 (VCO-2.0) districts).<sup>2</sup> Ex. I, Town/Village of Scarsdale Zoning Analysis, at Figure

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<sup>2</sup> In its February 2012 analysis, the County Planning Department stated that multifamily housing is allowed as-of-right in only three zoning districts: Res C, PUD-1 and PUD-.8. Ex. F, Town/Village of Scarsdale Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). This appeared to be an uncharacteristically narrow reading of the zoning ordinance. For other municipalities, if a business district allows "residences" (without further elaboration) as a principal use, even if confined to the upper floors of a mixed-use development, the County Planning Department indicates that they permit multifamily housing as-of-right. The Scarsdale zoning ordinance states that "residences" are among the permitted uses in the VCO-2.0 district. See VILLAGE OF SCARSDALE CODE § 310-12.B(4)(b)(1). It also states that residences are permitted upper floor uses in the Business A, VCR-2.0 and VCR-1.0 districts. The County's most recent zoning submission corrects the prior omission of the Business A, VCR-2.0 and VCR-1.0 districts but not the omission of the VCO-2.0 district. Ex. I,



- 7, Eighth Zoning Submission, dated July 23, 2013; VILLAGE OF SCARSDALE CODE §§ 310-9.D, 310-11.A(10), 310-12.B(1)(b)(2), 12.B(2)(b)(2), 12.B (4)(b)(1), 12.B(6)(b)(2), 12.B(7)(b)(2).
- Mixed-use development (i.e., residences above stores) is permitted as-of-right in up to eight zoning districts.<sup>3</sup> Ex. F, Town/Village of Scarsdale Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF SCARSDALE CODE §§ 310-9.D, 310-11.A(10), 310-12.B(1)(b)(1)-(2), 310-.B(2)(b)(1)-(2), 310-12.B(4)(b)(1), 310-.B(6)(b)(2), 310-12.B(7)(b)(1)-(2).
  - Two-family dwellings are permitted as-of-right in up to five zoning districts.<sup>4</sup> Ex. I, Town/Village of Scarsdale Zoning Analysis, at Figure 7, Eighth Zoning Submission, dated July 23, 2013; Ex. F, Town/Village of Scarsdale Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF SCARSDALE CODE §§ 310-9.D, 310-12.B(6)(b)(2), 310-12.B(7)(b)(2).
  - Accessory apartments are not permitted in any zoning district. Ex. I, Town/Village of Scarsdale Zoning Analysis, at 3 and Figure 7, Eighth Zoning Submission, dated July 23, 2013.<sup>5</sup>

### **Restrictive Practices**

- Accessory housing units are not permitted in any district. Ex. I, Town/Village of Scarsdale Zoning Analysis, at 3 and Figure 7, Eighth Zoning Submission, dated July 23, 2013.

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Town/Village of Scarsdale Zoning Analysis, at Figure 7, Eighth Zoning Submission, dated July 23, 2013. The July 2013 submission also states incorrectly that the VCR-.8 district also allows multifamily housing as-of-right. *Id.* A review of the zoning code reveals that the VCR-.8 district does not permit residential uses. VILLAGE OF SCARSDALE CODE § 310-12.B(3)(b). All analyses of the acreage zoned for multifamily residential development, the number of available sites in those districts and the potential number of housing units that could be developed on those sites were based on the County's earlier conclusion that only three districts permit multifamily housing as-of-right.

<sup>3</sup> In its analysis, the County Planning Department identifies 8 districts as permitting mixed-use development as-of-right, which includes the VCO-0.8 district. Ex. F, Town/Village of Scarsdale Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). However, the zoning ordinance does not mention residential use of any kind as a permitted use in the VCO-0.8 district. VILLAGE OF SCARSDALE CODE § 310-12.B(5)(b).

<sup>4</sup> In its February 2012 submission, the County Planning Department identified three zoning districts that allow for two-family housing development as-of-right (Res C, PUD 1 and PUD8-1.4). Ex. F, Town/Village of Scarsdale Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). The July 2013 submission also identifies the VCR-2.0 and VCR-1.0 districts as allowing two-family housing as-of-right; however, two of those districts allow residences only above the ground floor in a mixed-use development, and thus exclude what is generally thought of as two-family homes. Ex. I, Town/Village of Scarsdale Zoning Analysis, at Figure 7, Eighth Zoning Submission, dated July 23, 2013; VILLAGE OF SCARSDALE CODE §§ 310-12.B(1)(b)(2), 12.B(2)(b)(2).

<sup>5</sup> In its February 2012 analysis, the County Planning Department erroneously stated that accessory apartments are allowed as-of-right in five nonresidential zoning districts, but it has corrected this error in its July 2013 analysis. Compare Ex. F, Town/Village of Scarsdale Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012), with Ex. I, Town/Village of Scarsdale Zoning Analysis, at Figure 7, Eighth Zoning Submission, dated July 23, 2013.

### **Incentives and Mandates**

- All residential developments of 10 or more units must contain at least 10 percent affordable units. VILLAGE OF SCARSDALE CODE § 310-108.A. In a development of from five to nine units, at least one unit must be affordable. *Id.*
- An affordable housing development is entitled to an expedited review process. VILLAGE OF SCARSDALE CODE § 310-119.
- There are no zoning bonuses for affordable housing developments. See VILLAGE OF SCARSDALE CODE Ch. 310 Art. XVII.

### **Zoning Map, Development Pattern and Development Potential**

- The districts that allow multifamily housing as-of-right approximately cover less than one-half of one percent of the Village's land area.<sup>6</sup> Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).
- These areas are fully built out, with no available development sites.<sup>7</sup> Ex. E, Methodology II-B Map August 2012 (submitted Sep. 6, 2012); Methodology II-B Table August 2012 (submitted Sep. 6, 2012).
- Developers are currently seeking approvals for five affordable housing units. Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013).
- Only 0.26 percent of the Village's land area in residential use is currently occupied by multifamily development (defined for this purpose as apartments, townhouses and quadraplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. No two- and three-family housing currently exists in the Village. *Id.*
- With an estimated average price of \$1.3 million per condo unit, housing values are high enough to make multifamily housing development attractive. Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012). If density incentives were provided, market-rate housing values are sufficient to spur mixed-income development, without the need for financial subsidies.

### **Master Plan**

- The current comprehensive plan was prepared by Buckhurst Fish & Jacquemart and adopted in October 1994. *Comprehensive Plan: Scarsdale, New York*, adopted Oct. 1994. With regard to affordable housing, the plan recommended (1) quantifying the demand for below-market-rate housing for municipal and school district employees and young and senior families, (2) creating site criteria and evaluating Village-owned parcels as potential sites for affordable housing, (3) mandating that some portion of the units in residential districts in some zoning

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<sup>6</sup> The Methodology III-C-2 Table included only three districts as permitting multifamily housing as-of-right, which are mapped over 15.6 acres, or 0.4% of Scarsdale's land area. See Ex. E. The County's July 2013 zoning analysis adds four additional districts. Ex. I, Town/Village of Scarsdale Zoning Analysis, at Figure 7, Eighth Zoning Submission, dated July 23, 2013. The estimates of acreage by zoning district in the Racial Composition Table indicate that the Business A, VCR-2.0, VCR-1.0 and VCO-2.0 districts contain another 6.7 acres, bringing the total to 22.5 acres, or 0.5% of the Village's land area. Ex. K, Racial Composition Table, Village of Scarsdale – 2000 & 2010 Census Data (submitted Aug. 15, 2012).

<sup>7</sup> Analysis has been performed only on the areas zoned Res C, PUD-1 and PUD8-1.4, the districts identified by the County as allowing multifamily housing as-of-right in Ex. F, Town/Village of Scarsdale Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012).

districts be below market rate and (4) legalizing existing accessory housing units. *Id.* at 57.

- An update to the village center component of the comprehensive plan was prepared by Phillips Preiss Shapiro Associates and adopted in 2010. *An Update of the Village Center Component of the Village of Scarsdale Comprehensive Plan*, adopted Aug. 2010. The update recommended that residential use in the village center be limited to mixed-use buildings. *Id.* at 50. It also recommended permitting various types of residential development “such as age-restricted or workforce housing,” in mixed-use buildings at three key sites. *Id.* at 49.

### **Race, Ethnicity and Socioeconomic Characteristics**

- Scarsdale’s Black population remained the same with 1.5 percent of the Village’s total population in 2000 and 2010, but the Hispanic population increased from 2.6 percent of the Village’s total population to 3.9 percent. (Ex. K, Racial Composition Table, Village of Scarsdale – 2000 & 2010 Census Data (submitted Aug. 15, 2012)). The combined Black and Hispanic population increased from 4 percent of the Village’s total population to 5 percent. *Id.*
- The Village of Scarsdale’s status under section 7(a) of the Settlement has not changed.<sup>8</sup>
- In districts that allow multifamily housing as-of-right, the combined Black and Hispanic population increased from 3 percent in 2000 to 8 percent in 2010. *Id.*
- The Village’s family median income rose from \$200,001 in 1999, as reported in the 2000 census, to the \$250,000+ during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. See *Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*. Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income declined from \$280,318 to \$271,134. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Village’s families earning no more than 80 percent of Westchester County’s Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – decreased from about 13.6 percent as of the 2000 census to about 11.5 percent as of the 2007-2011 American Community Survey. See *Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*.

### **Implications**

- The Village of Scarsdale’s zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.

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<sup>8</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality’s eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

- The few areas in which multifamily housing is allowed as-of-right appear to be fully built out. No available sites for new multifamily development have been identified.
- Alternative housing types, such as mixed-use development, but not accessory apartments, are permitted as-of-right in some locations, but by themselves are unlikely to reach the scale required to meet the most recent and best available estimate of the Village's share of regional affordable housing need.
- With an estimated average price of \$1.3 million per condo unit, housing values are high enough to make multifamily housing development attractive. Particularly if density incentives were provided, market-rate housing values would likely be sufficient to spur mixed-income development, without the need for financial subsidies. The very high value of apartments and condo units in the Village would be sufficient to support 80/20 mixed-income housing (which is more aggressive than the 90/10 mix that represents the maximum permitted ratio of market-rate to affordable units under the Village's zoning ordinance). The 80/20 ratio would provide less development pressure than 90/10 mixed income housing, and unlike 90/10 developments would be eligible for federal tax incentives.
- There is no indication, however, that affordable housing units have been developed or approved in the Village since 2000, although developers are currently seeking approvals to build five affordable units.
- Additional actions will probably be needed for the Village to make meaningful progress towards satisfying its share of regional affordable housing need. These might include, in some combination, increasing the mandate for affordable housing to more than 10 percent of the housing units (as noted), providing density or other incentives for affordable housing, mapping additional areas where multifamily housing is permitted as-of-right, permitting accessory housing units (especially if they were allowed in accessory buildings, such as existing or "faux" garages), and providing opportunities for additional types of development (such as quadraplexes or cottage-style housing).

## SCARSDALE DATA SHEET

a. Total acreage of the Village (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	4,278 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right <sup>9</sup> (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	15.6 acres	0.4%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	0 acres <sup>10</sup>	0%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes (Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012) – Scarsdale not listed)	0 acres	0%
e. Order-of-magnitude area available for development <sup>11</sup> (Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012) – Scarsdale not listed)	0 acres	0%
f. Number of sites available for development	0 sites	
g. Average size of sites (Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012) – Scarsdale not listed)	N/A	
h. Theoretical number of multifamily units that can be developed as-of-right (Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012) – Scarsdale not listed)	0 units	

<sup>9</sup> The analyses in b through h involve only the areas zoned Res C, PUD-1 and PUD8-1.4, the districts identified by the County as allowing multifamily housing as-of-right in Ex. F, Town/Village of Scarsdale Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). The County's July 2013 zoning analysis adds four additional districts. Ex. I, Town/Village of Scarsdale Zoning Analysis, at Figure 7, Eighth Zoning Submission, dated July 23, 2013. The estimates of acreage by zoning district in the Racial Composition Table indicate that the Business A, VCR-2.0, VCR-1.0 and VCO-2.0 districts contain another 6.7 acres, bringing the total to 22.5 acres, or 0.5% of the Village's land area. Ex. K, Racial Composition Table, Village of Scarsdale – 2000 & 2010 Census Data (submitted Aug. 15, 2012).

<sup>10</sup> The analysis found no zones that allow multifamily housing as a permitted use in which there are undeveloped parcels that meet the minimum lot size standards for their zoning districts or those that are "under-sized" but are contiguous with "undeveloped" parcels that, as a group of contiguous undeveloped parcels, meet the minimum lot size standards. Since there are zero acres of undeveloped land in the Village, fact sheet points d through h are also zero or not applicable.

<sup>11</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

i. Average selling price for multifamily (condo) units <sup>12</sup> (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$1,282,000
j. Order-of-magnitude value for land, per condo unit <sup>13</sup> (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$385,000
k. Order-of-magnitude total cost of development, per condo unit <sup>14</sup> (Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	Above \$385,000
l. Percent minority population	
2000 Census (1.5% Black, 2.6% Hispanic)	4%
2010 Census (1.5% Black, 3.9% Hispanic) (Ex. K, Racial Composition Table, Village of Scarsdale – 2000 & 2010 Census Data (submitted Aug. 15, 2012))	5%
m. Percent minority population in the zoning districts permitting multifamily housing as-of-right	
2000 Census (0.3% Black, 2.2% Hispanic)	3% <sup>15</sup>
Res C 2.0% Black, 1.5% Hispanic	4%
PUD-1 0.0% Black, 2.3% Hispanic	2%
PUD-.8-1.4 <sup>16</sup>	N/A
Business A 3.9% Black, 3.3% Hispanic	7%
VCR-2.0 0.0% Black, 1.6% Hispanic	2%
VCR-1.0 0.0% Black, 4.9% Hispanic	5%
VCO-2.0 <sup>17</sup>	N/A

<sup>12</sup> Data provided by the County was rounded to the nearest thousand.

<sup>13</sup> Data provided by the County was rounded to the nearest thousand.

<sup>14</sup> In general this report cites a countywide average of \$375,000 for development of affordable housing developments, which does not take local land costs into consideration. For Scarsdale, however, that figure is not tenable since land cost alone exceeds \$375,000.

<sup>15</sup> Weighted average of the Res C , PUD-1, Business A, VCR-2.0 and VCR-1.0 districts.

<sup>16</sup> If the total population is fewer than ten persons, the Census Bureau does not report racial breakdown.

<sup>17</sup> *Id.*

2010 Census	(1.0% Black, 6.5% Hispanic)	8% <sup>18</sup>
Res C	0.7% Black, 7.4% Hispanic	9%
PUD-1	0.5% Black, 5.6% Hispanic	6%
PUD-.8-1.4	0.8% Black, 7.8% Hispanic	8%
Business A <sup>19</sup>		N/A
VCR-2.0	2.8% Black, 1.7% Hispanic	5%
VCR-1.0 <sup>20</sup>		N/A
VCO-2.0 <sup>21</sup>		N/A

(Racial Composition Table, Village of Scarsdale – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

n. Municipal status under the Settlement based on percent minority population<sup>22</sup>

2000 Census Section 7(a)

2010 Census Section 7(a)

(Ex. K, Racial Composition Table, Village of Scarsdale – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)

2000 \$66,500

2010 \$83,800

(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)

p. Number of families at or below 80% area median income (AMI)<sup>23</sup>

2000 676 13.6%

2007-2011 572 11.5%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

<sup>18</sup> Weighted average of the Res C, PUD-1, PUD-.8-1.4 and VCR-2.0 districts.

<sup>19</sup> If the total population is fewer than ten persons, the Census Bureau does not report racial breakdown.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

<sup>23</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

q. Median family income	
2000	\$200,001
2007-2011	\$250,000+
<i>(Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates)</i>	
r. Number of units needed to meet the 2000-2015	160 units
Allocation Plan benchmark	
2015 Allocation	160 units
Number of units created since 2000	0 units
(Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))	



## TOWN OF SOMERS

The Town of Somers' zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Town to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> Affordable housing units are mandated for multifamily senior housing anywhere in the Town and for other residential developments in selected districts, and zoning incentives are available for multifamily housing in some districts. See TOWN OF SOMERS CODE §§ 170-23, 170-15.1, 170-20.4, 170-13. Districts that permit multifamily housing as-of-right are located throughout the Town fairly extensively. See Ex. E, Town of Somers Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). Furthermore, alternative housing types, such as mixed-use development and accessory apartments, are permitted in some districts. Ex. F, Town of Somers Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF SOMERS CODE §§ 170-15.1.A, 170-20.G, 170-21.2.E, 170-23, 170-15.2.K, 170-11, 170-12, 170-13, 170-27.A, 170-31.A.

The Town has adopted portions of the model affordable housing zoning ordinance, and in one important way its zoning is contrary to the model ordinance provisions. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; TOWN OF SOMERS CODE Ch. 170 Art. XIA (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013). The only Town-wide affordability mandate applies to senior housing; requirements for affordable units in other types of residential developments and incentives for affordable housing apply in some districts only, not throughout the Town's zoning districts. TOWN OF SOMERS CODE §§ 170-23, 170-15.1, 170-20.4, 170-13. More problematically, the zoning ordinance gives preference to Somers residents, municipal employees, volunteer firemen, policemen, school district employees, and former Town residents for affordable units. TOWN OF SOMERS CODE § 170-60.2.A. Despite this, the Town's biggest advantage is the availability of properly zoned available land. Ex. E, Town of Somers Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). Somers contains a number of relatively large development sites in districts that permit multifamily housing as-of-right, which can theoretically accommodate 260 new multifamily housing units. *Id.*

The Town has made considerable progress in accommodating affordable housing, with 149 units having been built or approved since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013). That is approximately two-thirds of the 224 affordable housing units that the 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC"), estimated as the Town's fair share of regional need. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). In addition, a developer is seeking approvals to construct 72

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

units of affordable housing on one of the identified potential development sites. Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013). The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Town's success in providing for the most recent and best available estimate of its share of regional affordable housing need.

### **Model Zoning and County Benchmark**

- The Town has adopted only portions of the model affordable housing zoning ordinance regarding the definition, distribution and resale of affordable units. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; TOWN OF SOMERS CODE Ch. 170 Art. XIA; Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013). Affordable housing units are mandated for multifamily senior housing and for other residential developments in selected districts, and zoning incentives are available for multifamily housing in other districts. TOWN OF SOMERS CODE §§ 170-23, 170-15.1, 170-20.4, 170-13. However, mandates and incentives do not apply broadly throughout the Town's zoning districts. Also, the zoning ordinance gives preference to Somers residents, municipal employees, volunteer firemen, policemen, school district employees, and former Town residents for affordable units. TOWN OF SOMERS CODE § 170-60.2.A.
- The HOC's 2005 Affordable Housing Allocation Plan originally called for 224 affordable housing units in Somers, of which approximately two-thirds (149 units) have been built or approved. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013). The 149 affordable units consist of 74 units listed in the most recent AHAP status report (of which 74 are in the Mews 1 affordable housing development) and the more recently approved 75-unit Mews 2 affordable development. Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013).
- A developer is seeking approvals for 72 units of affordable housing on Route 6, which would be known as the Green at Somers. *Id.*

### **Zoning Ordinance**

- Multifamily housing is permitted as-of-right in the PH district and in the floating DRD, MFR-H and MFR-BP districts, the last of which has not been mapped anywhere in the Town, upon the mapping of one of these districts in response to a development proposal. Ex. F, Town of Somers Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF SOMERS CODE §§ 170-23, 170-12.C(2), 170-13.A, 170-13.B; Ex. E, Town of Somers Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). Multifamily housing is also allowed as-of-right above the ground floor, as

part of a mixed-use project, in the BHP, CS and NS districts. Ex. F, Town of Somers Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF SOMERS CODE §§ 170-15.1, 170-20, 170-21.2.

- Mixed-use development (i.e., residences above stores) is permitted as-of-right in four zoning districts, including the three listed above. Ex. F, Town of Somers Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF SOMERS CODE §§ 170-15.1.A, 170-20.G, 170-21.2.E, 170-23.
- Two-family dwellings are prohibited in the Town. Ex. F, Town of Somers Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Zoning, TOWN OF SOMERS CODE Ch. 170. Multifamily dwellings are defined as buildings containing three or more dwelling units. TOWN OF SOMERS CODE § 170-3.
- Accessory apartments are permitted in 10 zoning districts, on single-family lots only. Ex. F, Town of Somers Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF SOMERS CODE §§ 170-15.2.K, 170-11, 170-12, 170-13, 170-27.A, 170-31.A.

### **Restrictive Practices**

- Two-family dwellings are prohibited in the Town. Ex. F, Town of Somers Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Zoning, TOWN OF SOMERS CODE Ch. 170.
- The minimum site size for Designed Residential Development (DRD) designation is 500 acres. TOWN OF SOMERS CODE § 170-12.B(2).
- The minimum lot area in the Multifamily Residence Baldwin Place (MFR-BP) district and the Multifamily Residence Hamlet (MFR-H) district is 10 acres. Ex. F, Town of Somers Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Zoning Schedule Part 2, TOWN OF SOMERS CODE, Apr. 15, 2004.
- The MFR-BP district restricts development to a maximum of three density units per acre. TOWN OF SOMERS CODE § 170-13.A(2)(a). A density unit may consist of two four-bedroom units, three three-bedroom units, four two-bedroom units, five one-bedroom or efficiency units, or some combination of the above. TOWN OF SOMERS CODE § 170-12.D(1)(a). While this does not restrict multifamily housing, it encourages smaller units and may not provide enough total units to meet the Town's need for affordable housing.
- The MFR-H district restricts development to a maximum of two density units per acre. TOWN OF SOMERS CODE § 170-13.B(1).
- In the CS and NS districts, residential units are limited to a maximum of two bedrooms. TOWN OF SOMERS CODE §§ 170-20.3.L, 170-21.5.K.

### **Incentives and Mandates**

- In the PH district, at least 15 percent of housing units must be affordable. TOWN OF SOMERS CODE § 170-23.A.
- In the MFR-BP, MFR-H, PH, Neighborhood Shopping (NS) and Business Historic Preservation (B-HP) districts, at least 15 percent of the base permitted density units in a development must be affordable. TOWN OF SOMERS CODE §§ 170-13.A(2)(a), 170-13.B(1), 170-15.1.C(1), 170-20.4.A, 170-23.A.

- Multifamily senior housing developments must contain no less than 10 percent affordable income units. TOWN OF SOMERS CODE § 170-23.M.
- In the MFR-BP district, the base number of density units may be increased by up to 50 percent if the development includes more than the required affordable component. TOWN OF SOMERS CODE § 170-13.A(3). One additional market-rate unit may be developed for each affordable unit in excess of the required 15 percent of the base permitted density units, but not to exceed a maximum increase of 20 percent in the number of market-rate units. *Id.*
- In the NS district, if at least 50 percent of units in a development are affordable, the Town Board may permit a floor area ratio (FAR) increase up to 50 percent, a reduction in the number of required parking spaces, and/or an increase in building height to three stories or 50 feet. TOWN OF SOMERS CODE § 170-20.4.B.
- Density bonuses of up to 10 percent may be awarded in Designed Residential Developments if in the Town Board's judgment particular social, cultural, environmental, physical or economic needs of the community are to be served or substantial benefits are to be derived. TOWN OF SOMERS CODE § 170-12.D(1)(b)(2).

### **Zoning Map, Development Pattern and Development Potential**

- Eleven areas are located within districts that permit multifamily housing as-of-right, covering 7 percent of the Town's land area. Ex. E, Town of Somers Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).
- Nine available development sites, averaging eight acres in size, have been identified in these areas. *Id.* at Town of Somers Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). The sites can cumulatively accommodate an estimated 260 housing units. *Id.* at Town of Somers Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).
- All of the sites are in zoning districts that mandate an affordable housing component. TOWN OF SOMERS CODE §§ 170-15.1.C(1), 170-20.4.A, 170-23.A.
- A developer is seeking approvals to construct 72 units of affordable housing on one of the nine identified potential development sites. Ex. G, *Westchester County 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10, 2013).
- Only 0.9 percent of the land area currently in residential use is occupied by multifamily housing (defined for this purpose as apartments, townhouses and quadrplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. An additional 1.1 percent is currently occupied by two- and three-family housing. *Id.*
- The Town is located within the watershed of the New York City water supply system, and is thus subject to the *Rules and Regulations for the Protection of the New York City Water Supply and Its Sources* (more commonly known as the *Watershed Rules and Regulations*). See *Priority Areas for New York City Land Acquisition & Stewardship Program* (1997), available at <http://www.ecolibary.org/page/DP4507>. This consideration places considerable constraints on the density and location of housing development in the Town.
- The estimated average price of a condo unit in Somers (\$352,000) is below the estimated cost of development of a condo unit (\$375,000), which may appear to

reduce the likelihood of new multifamily housing development, particularly on small sites where economies of scale are not possible, and may also reduce the likelihood that affordable multifamily units would be built without subsidies. Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012).

### **Master Plan**

- The interim working draft of the Town comprehensive plan was released in December 2005. Interim Working Draft, *Comprehensive Master Plan Update*, Town of Somers, New York, Dec. 2005. The Town Board has not adopted the plan. *Master Plan Update Interim Working Draft*, Somersny.com, available at [www.somersny.com](http://www.somersny.com).
- The draft plan recommends committing to building 25 affordable units per year for 10 years, reviewing and amending accessory apartment requirements, establishing intergovernmental agreements and partners to share expenses and providing zoning and subdivision relief for smaller lot solutions. Interim Working Draft, *Comprehensive Master Plan Update*, Town of Somers, New York, at III-4, Dec. 2005.

### **Race, Ethnicity and Socioeconomic Characteristics**

- Somers' Black population remained largely the same with 1.7 percent of the Town's population in 2000 and 1.6 percent in 2010, but the Hispanic population increased from 3 percent to 4.9 percent of the Town's population. Ex. K, Racial Composition Table, Town of Somers – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 5 percent of the Town's total population to 7 percent. *Id.*
- Despite this increase, the Town of Somers's status under section 7(a) of the Settlement has not changed.<sup>2</sup>
- In districts that allow multifamily housing as-of-right, the combined Black and Hispanic population increased from 2 percent in 2000 to 4 percent in 2010. *Id.*
- The Town's median family income rose from \$103,950 in 1999, as reported in the 2000 census, to \$133,507 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. See *Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*. Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income declined from \$145,695 to \$144,793. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Town's families earning no more than 80 percent of Westchester County's Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – decreased from about 26.9 percent as of the 2000 census to about 23.7 percent as of the 2007-2011 American Community Survey. See *Profile of Selected Economic*

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

*Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

### **Implications**

- The Town of Somers' zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Town to meet the most recent and best available estimate of its share of regional affordable housing need.
- The Town has adopted portions of the model affordable housing zoning ordinance, providing mandates and generous incentives for affordable housing in some districts but not throughout the Town.
- Multifamily housing is permitted as-of-right in seven of the Town's zoning districts, but certain of these districts have very large minimum lot areas and low maximum densities, and three of the districts are floating zones that are mapped only in response to developer proposals, so that developments require zoning map amendments.
- The Town contains a number of sizeable development sites in districts that permit multifamily housing as-of-right and that mandate the inclusion of affordable housing, which can theoretically accommodate 260 new multifamily housing units.
- A developer is seeking approvals for 72 affordable housing units on one of the sites.
- The estimated average price of a condo unit in Somers is below the estimated cost of development of a condo unit in Westchester County, which may appear to reduce the likelihood of new multifamily housing development, particularly on small sites where economies of scale are not possible, and may also reduce the likelihood that new affordable multifamily units would be built without subsidies.
- Alternative housing types, such as mixed-use development and accessory apartments, are permitted in some districts.
- Additional actions will be needed for the Town's zoning code to provide viable opportunities for affordable housing. Considerable creativity will need to be employed with any strategy involving new housing development in Somers, due to the constraints imposed by its location within the watershed of the New York City water supply system, compounded by soil and drainage conditions in some locations. Some solutions may emerge should the City and State of New York make or agree to infrastructure improvements to address septic and package plant failures in one or another area. In the absence of such action, solutions might involve the development of affordable housing in locations where sewage is not an issue, such as housing above stores in hamlet centers, or low-density development models, such as allowing two-family housing with one affordable unit instead of a similarly sized single-family home. Even if environmental conditions seem to forestall higher density affordable housing development for the time being, so that density bonuses are not currently feasible, a form of the model zoning ordinance could still be adopted, providing a mandate across more districts to ensure an affordable housing component in any development (no matter what the density) of ten or more housing units.

## SOMERS DATA SHEET

a. Total acreage of the Town (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	20,583 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	1,499 acres	7.3%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	94.6 acres	0.5%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes	92.3 acres	0.5%
NS	8.22 acres	
PH	81.08 acres	
B-HP	3.04 acres	
(Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))		
e. Order-of-magnitude area available for development <sup>3</sup>	73.9 acres	0.4%
NS	6.58 acres	
PH	64.87 acres	
B-HP	2.43 acres	
(Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))		
f. Number of sites available for development (See Ex. E, Town of Somers Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	9 sites	
g. Average size of sites (See Ex. E, Town of Somers Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	8.2 acres	
h. Theoretical number of multifamily units that can be developed as-of-right	260 units	
NS	53 units	
PH	188 units	
B-HP	19 units	
(See Ex. E, Town of Somers Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))		
i. Average selling price for multifamily (condo) units <sup>4</sup> (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$352,000	
j. Order-of-magnitude value for land, per condo unit <sup>5</sup> (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$70,000	

<sup>3</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>4</sup> Data provided by the County was rounded to the nearest thousand.

<sup>5</sup> Data provided by the County was rounded to the nearest thousand.

k. Order-of-magnitude total cost of development, \$375,000  
per condo unit<sup>6</sup>  
(Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))

l. Percent minority population  
2000 Census (1.7% Black, 3.0% Hispanic) 5%  
2010 Census (1.6% Black, 4.9% Hispanic) 7%  
(Ex. K, Racial Composition Table, Town of Somers – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

m. Percent minority population in the mapped zoning districts  
permitting multifamily housing as-of-right  
2000 Census (0.9% Black, 1.3% Hispanic) 2%<sup>7</sup>  
NS 0.3% Black, 3.0% Hispanic 3%  
PH 2.3% Black, 4.8% Hispanic 7%  
B-HP 0.5% Black, 0.8% Hispanic 1%  
CS 2.3% Black, 4.8% Hispanic 7%  
MFR-H 0.5% Black, 3.2% Hispanic 4%  
DRD 1.1% Black, 1.1% Hispanic 2%  
2010 Census (1.3% Black, 2.5% Hispanic) 4%<sup>8</sup>  
NS 1.9% Black, 9.8% Hispanic 12%  
PH 0.4% Black, 3.8% Hispanic 4%  
B-HP 1.3% Black, 3.1% Hispanic 4%  
CS 0.0% Black, 0.1% Hispanic 0%  
MFR-H 1.6% Black, 3.7% Hispanic 5%  
DRD 1.3% Black, 2.1% Hispanic 3%  
(Ex. K, Racial Composition Table, Town of Somers – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

<sup>6</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in Somers are in the third quartile of the 31 eligible municipalities, total development costs in Somers are likely to be lower than the \$375,000 average.

<sup>7</sup> Weighted average of the NS, PH, B-HP, CS, MFR-H and DRD districts.

<sup>8</sup> Weighted average of the NS, PH, B-HP, CS, MFR-H and DRD districts.



n. Municipal status under the Settlement based on percent minority population<sup>9</sup>  
 2000 Census Section 7(a)  
 2010 Census Section 7(a)  
 (Ex. K, Racial Composition Table, Town of Somers – 2000 & 2010 Census Data  
 (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)  
 2000 \$66,500  
 2010 \$83,800  
 (Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban  
 Development)

p. Number of families at or below 80% area median income (AMI)<sup>10</sup>  
 2000 1,401 26.9%  
 2007-2011 1,340 23.7%  
 (*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic  
 Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income  
 2000 \$103,950  
 2007-2011 \$133,507  
 (*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic  
 Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark 75 units  
 2015 Allocation 224 units  
 Number of units created since 2000 149 units  
 (See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-  
 2012 – As of November 20, 2012 (submitted Nov. 20, 2012); Ex. G, *Westchester County  
 2013 1Q Report*, at App'x I-1, 1Q 2013 AFFH Sites Progress List (submitted May 10,  
 2013))

<sup>9</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

<sup>10</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## VILLAGE OF TARRYTOWN

The Village of Tarrytown's zoning ordinance appears to provide meaningful opportunities for the development of affordable housing sufficient to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> The Village has adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; VILLAGE OF TARRYTOWN CODE § 305-130 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013). Density bonuses are available for developments that provide more than the required number of affordable housing units. VILLAGE OF TARRYTOWN CODE § 305-130.E(2). Multifamily housing and mixed-use development are permitted in the Village, but accessory apartments are prohibited. Ex. F, Village of Tarrytown Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF TARRYTOWN CODE §§ 305-22.A(5), 305-29.A(2), 305-30.A(2), 305-31.A, 305-32.A, 305-33.A, 305-35.A(4), 305-38.D(1), 305-129.C(6)(b), 305-39.A(6)(b), 305-40.A(9), 305-42.E(3). Within districts that allow multifamily housing as-of-right, development sites have been identified that have a cumulative capacity to accommodate 50 new multifamily units as-of-right. Ex. E, Village of Tarrytown Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).

The Village has made excellent progress in accommodating affordable housing; 66 affordable housing units have been built or approved since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). That represents 60 percent of the 111 affordable units that the 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC"), estimated as Tarrytown's fair share of regional need. *Id.* The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Village's success in providing for the most recent and best available estimate of its share of regional affordable housing need.

### Model Zoning and County Benchmark

- The Village has adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; VILLAGE OF TARRYTOWN CODE § 305-130 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan originally estimated for 111 affordable housing units in Tarrytown, of which roughly 60 percent (66 units) have been built or approved since 2000. Ex. C, Table, Status of Allocation per

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). That is the second best record of the municipalities covered by the Settlement. *Id.*

### **Zoning Ordinance**

- Multifamily housing is permitted as-of-right in eight of the Village's 24 zoning districts (the R-5, M-1, M-1.5, M-2, M-3, M-4, MU and HC districts), although in the MU district multifamily housing is allowed only as part of a mixed-use development, with no more than 55 percent of floor area devoted to residential use. Ex. F, Village of Tarrytown Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF TARRYTOWN CODE §§ 305-22.A(5), 305-29.A(2), 305-30.A(2), 305-31.A, 305-32.A, 305-33.A, 305-35.A(4), 305-38.D(1), 305-129.C(6)(b).
- Mixed-use development (i.e., residences above stores) is permitted as-of-right in three zoning districts. Ex. F, Village of Tarrytown Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF TARRYTOWN CODE §§ 305-39.A(6)(b), 305-40.A(9), 305-42.E(3).
- Two-family dwellings are permitted as-of-right in 10 zoning districts. Ex. F, Village of Tarrytown Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF TARRYTOWN CODE §§ 305-22.A(5), 305-29.A(3), 305-30.A(5), 305-31.A(2), 305-32.A(1), 305-33.A(1), 305-36.A(5), 305-37.A(2)(d), 305-39.A(5), 305-40.A(5).

### **Restrictive Practices**

- Accessory apartments are prohibited throughout the Village. Ex. F, Village of Tarrytown Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Zoning, VILLAGE OF TARRYTOWN CODE Ch. 305.

### **Incentives and Mandates**

- In any residential development of 10 units or more, at least 10 percent of all units must be affordable. VILLAGE OF TARRYTOWN CODE § 305-130.D(1)(a). In residential developments of eight or nine units, at least one affordable unit must be created. *Id.* In residential developments of five to seven units, payments in lieu of affordable units must be made. *Id.*
- Density bonuses of up to 50 percent and waivers of land and building requirements may be awarded to developments that create more than the required number of affordable housing units. VILLAGE OF TARRYTOWN CODE § 305-130.E(2).
- In two special waterfront districts, WGBD and WD, dimensional bonuses, including larger permitted frontage, coverage, width, setback and height measurements, as well as relaxed landscaping requirements, may be awarded to a developer that provides affordable housing. VILLAGE OF TARRYTOWN CODE §§ 305-125.D, 305-42.B(1)(g), 305-43.B(1)(g).

### **Zoning Map, Development Pattern and Development Potential**

- Twenty-four (24) areas are in zoning districts that permit multifamily housing as-right. Ex. E, Village of Tarrytown Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). These areas include 18 percent of the Village's land area, a high percentage relative to that in most municipalities covered by the

Settlement. *Id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012). Most of the areas are fully built out, however. *Id.* at Village of Tarrytown Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).

- These areas contain five development sites, averaging half an acre in size, which can accommodate a total of about 50 housing units as-of-right. See *id.*; *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012).
- The development sites are in zoning districts that have relatively high percentages of Black and Hispanic residents, as does the Village as a whole. The sites on which most of the new units can be built are in the MU district, in which 31 percent of residents were Black or Hispanic as of the 2000 census, and in which 42 percent were Black or Hispanic as of the 2010 census. Ex. E, Village of Tarrytown Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. K, Racial Composition Table, Village of Tarrytown – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The other sites are in the M-1 and M-2 districts, where these minorities comprised 51 and 27 percent of the population respectively in 2000 and 53 and 38 percent in 2010. Ex. E, Village of Tarrytown Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. K, Racial Composition Table, Village of Tarrytown – 2000 & 2010 Census Data (submitted Aug. 15, 2012).
- Thirty-two percent of the Village’s land area currently in residential use is occupied by multifamily housing (defined for this purpose as apartments, townhouses and quadraplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. An additional 6 percent is occupied by two- and three-family housing. *Id.*
- With an estimated average price of \$650,000 per condo unit, housing values are high enough to make multifamily housing development attractive. Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012). Density incentives and the high market-rate housing values should be sufficient to spur mixed-income development, without the need for financial subsidies.

### **Master Plan**

- The most recent comprehensive plan was adopted in 2007, completed by BFJ Planning. *Tarrytown Comprehensive Plan*, Tarrytown, NY, adopted Mar. 2007.
- The plan recommends permitting accessory apartments and expanding the development of mixed-use projects that include housing. *Id.* at 4-7– 4-8. The plan also recommends amending the zoning code; the code was subsequently amended in 2011 to include the model affordable housing zoning ordinance. *Id.* at 4-8; VILLAGE OF TARRYTOWN CODE § 305-130.

### **Race, Ethnicity and Socioeconomic Characteristics**

- Tarrytown’s Black population increased from 7.1 percent of the Village’s total population in 2000 to 7.8 percent in 2010, and the Hispanic population increased from 16.2 percent to 20 percent of the Village’s total population. Ex. K, Racial Composition Table, Village of Tarrytown – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 23 percent of the Village’s total population to 28 percent. *Id.*

- Due to this increase, the Village of Tarrytown’s status under section 7(c) of the Settlement has changed and the Village should be considered ineligible.<sup>2</sup>
- In districts that allow multifamily housing as-of-right, the combined Black and Hispanic population increased from 34 percent in 2000 to 40 percent in 2010. *Id.*
- The Village’s median family income rose from \$82,445 in 1999, as reported in the 2000 census, to \$117,311 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income declined from \$115,554 to \$127,228. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Village’s families earning no more than 80 percent of Westchester County’s Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – decreased from about 39.6 percent as of the 2000 census to about 38.5 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

## Implications

- The Village of Tarrytown’s zoning ordinance appears to provide meaningful opportunities for the development of affordable housing sufficient to meet the most recent and best available estimate of its share of regional affordable housing need.
- Within districts that allow multifamily housing as-of-right, development sites have been identified that have a cumulative capacity to accommodate 50 new multifamily units as-of-right, without density bonuses.
- With an estimated average price of \$650,000 per condo unit, housing values are high enough to make multifamily housing development attractive. Combined with available density incentives, market-rate housing values should be sufficient to spur mixed-income development, without the need for financial subsidies. The very high value of apartments and condo units in the Village should be sufficient to promote 80/20 mixed-income housing (which is more aggressive than the 90/10 mix that represents the maximum permitted ratio of market-rate to affordable units under the Village’s zoning ordinance.) The 80/20 ratio would provide less development pressure than 90/10 mixed income housing, and unlike 90/10 developments would be eligible for federal tax incentives.
- Although the Village can theoretically satisfy its remaining fair share of regional affordable housing need under current conditions, additional actions may be needed. These might include, in some combination, increasing the mandate for affordable housing to more than 10 percent of the housing units; mapping additional areas where multifamily housing is permitted as-of-right; permitting

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<sup>2</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality’s eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

accessory housing units, as recommended in the Village's comprehensive plan (especially if they were allowed in accessory buildings, such as existing or "faux" garages); and providing additional opportunities for mixed-use development (also recommended in the comprehensive plan).

- Even with additional Village actions, assistance in the form of financial subsidies for all-affordable developments and marketing (such as the maintenance of a Countywide registry of affordable units), could also prove crucial.

## TARRYTOWN DATA SHEET

a. Total acreage of the Village (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	1,972 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	363.8 acres	18.4%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	18.1 acres	0.9%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes	2.9 acres	0.2%
M-2	0.21 acres	
MU	2.53 acres	
M-1	0.16 acres	
(Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))		
e. Order-of-magnitude area available for development <sup>3</sup>	2.3 acres	0.1%
M-2	0.17 acres	
MU	2.03 acres	
M-1	0.13 acres	
(Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))		
f. Number of sites available for development (See Ex. E, Village of Tarrytown Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	5 sites	
g. Average size of sites (See Ex. E, Village of Tarrytown Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0.46 acres	
h. Theoretical number of multifamily units that can be developed as-of-right	50 units	
M-2	7 units	
MU	38 units	
M-1	5 units	
(See Ex. E, Village of Tarrytown Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))		
i. Average selling price for multifamily (condo) units <sup>4</sup> (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$650,000	
j. Order-of-magnitude value for land, per condo unit <sup>5</sup> (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$195,000	

<sup>3</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>4</sup> Data provided by the County was rounded to the nearest thousand.

<sup>5</sup> Data provided by the County was rounded to the nearest thousand.

k. Order-of-magnitude total cost of development, \$375,000  
per condo unit<sup>6</sup>  
(Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))

l. Percent minority population  
2000 Census (7.1% Black, 16.2% Hispanic) 23%  
  
2010 Census (7.8% Black, 20.0% Hispanic) 28%  
(Ex. K, Racial Composition Table, Village of Tarrytown – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

m. Percent minority population in the zoning districts  
permitting multifamily housing as-of-right

2000 Census	(10.2% Black, 23.3% Hispanic)	34% <sup>7</sup>
M-1	12.8% Black, 38.1% Hispanic	51%
M-1.5	6.3% Black, 37.6% Hispanic	44%
M-2	4.0% Black, 23.2% Hispanic	27%
M-3	9.3% Black, 12.8% Hispanic	22%
M-4	11.4% Black, 11.8% Hispanic	23%
MU	19.6% Black, 11.5% Hispanic	31%
R-5	2.3% Black, 27.5% Hispanic	30%
HC	1.4% Black, 8.1% Hispanic	10%
2010 Census	(11.2% Black, 29.1% Hispanic)	40% <sup>8</sup>
M-1	14.6% Black, 38.6% Hispanic	53%
M-1.5	7.0% Black, 40.7% Hispanic	48%
M-2	4.4% Black, 33.7% Hispanic	38%
M-3	8.5% Black, 17.2% Hispanic	26%
M-4	18.0% Black, 22% Hispanic	40%
MU	22.0% Black, 19.9% Hispanic	42%
R-5	5.0% Black, 18.0% Hispanic	23%
HC	0.0% Black, 22% Hispanic	22%

(Ex. K, Racial Composition Table, Village of Tarrytown – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

<sup>6</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in Tarrytown are in the highest quartile of the 31 eligible municipalities, total development costs in Tarrytown are likely to be higher than the \$375,000 average. The spread between housing prices and development costs likely remains considerable.

<sup>7</sup> Weighted average of the M-1, M-1.5, M-2, M-3, M-4, MU, R-5 and HC districts.

<sup>8</sup> Weighted average of the M-1, M-1.5, M-2, M-3, M-4, MU, R-5 and HC districts.



n. Municipal status under the Settlement based on percent minority population<sup>9</sup>  
 2000 Census Section 7(c)  
 2010 Census Ineligible  
 (Ex. K, Racial Composition Table, Village of Tarrytown – 2000 & 2010 Census Data  
 (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)  
 2000 \$66,500  
 2010 \$83,800  
 (Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban  
 Development)

p. Number of families at or below 80% area median income (AMI)<sup>10</sup>  
 2000 1,112 39.6%  
 2007-2011 1,016 38.5%  
 (*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic  
 Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income  
 2000 \$82,445  
 2007-2011 \$117,311  
 (*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic  
 Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark 45 units  
 2015 Allocation 111 units  
 Number of units created since 2000 66 units  
 (See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-  
 2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

<sup>9</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

<sup>10</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## VILLAGE OF TUCKAHOE

The Village of Tuckahoe's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> Multifamily housing and mixed-use development are permitted as-of-right, but accessory apartments are prohibited in the Village. Ex. F, Village of Tuckahoe Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF TUCKAHOE CODE §§ 4-4.1, 4-5.1, 4-1.1.4, 4-2.1.1, 4-3.1.3, 4-4.1.5.1, 4-5.1.2. Within districts that allow multifamily housing as-of-right, development sites have been identified that have a cumulative capacity to accommodate 17 new multifamily units. Ex. E, Village of Tuckahoe Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).

Even though the Tuckahoe comprehensive plan recommended generally that the Village encourage affordable home ownership, the plan did not provide specific recommendations for doing so. Recommendation Draft December 2007, *Tuckahoe Comprehensive Plan*, Village of Tuckahoe, NY, at 44, adopted May 2008. Furthermore, the Village has not adopted the provisions of the model zoning ordinance; it has, however, adopted a workforce housing ordinance that is similar to the model affordable housing zoning ordinance in certain ways. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; VILLAGE OF TUCKAHOE CODE App'x A Art. XI (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15-17 (submitted May 10, 2013). A household is eligible to rent or buy a workforce unit if its annual income is no greater than 80 percent of the County's Area Median Income (AMI) which is consistent with the model ordinance's definition of affordability for ownership units but not for rental units. VILLAGE OF TUCKAHOE CODE § 11-4.1; Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions. However, preference for workforce units is given, in descending order, to (1) Village employees, (2) members of the Village Police or Fire Department, (3) school district employees, (4) elderly or disabled Village residents, (5) Village residents who are veterans, (6) other Village residents, (7) people who work in the Village, and (8) all others. VILLAGE OF TUCKAHOE CODE § 11-4.2. Such preferences are not permitted under the model ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions. In addition, density bonuses are available for developments that include workforce housing. VILLAGE OF TUCKAHOE CODE §§ 11-2, 11-3.

Although Tuckahoe has public housing projects and other older income-restricted housing, only six affordable housing units have been built or approved in the Village since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC"), estimated Tuckahoe's most recent and best available estimate of its share of

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

regional affordable housing need at 56 affordable housing units. *Id.* The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its April 2013 Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Village's success in providing for the most recent and best available estimate of its share of regional affordable housing need.

### **Model Zoning and County Benchmark**

- The Village has not adopted the provisions of the model zoning ordinance; it has, however, adopted a workforce housing ordinance that is similar to the model affordable housing zoning ordinance in certain ways but that, among other differences, does not include a mandate for workforce housing and provides preferences for Village employees and residents. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; VILLAGE OF TUCKAHOE CODE App'x A Art. XI (2012); Ex. G, *Westchester County 2013 1Q Report*, at 15-17 (submitted May 10, 2013). The workforce housing ordinance provides density bonuses for affordable housing and is consistent with the model ordinance with regard to the physical standards, rent, sale and resale prices of workforce housing units. VILLAGE OF TUCKAHOE CODE §§ 11-2, 11-3.
- The HOC's 2005 Housing Allocation Plan called for 56 affordable housing units in Tuckahoe, but only six units have been built or approved since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

### **Zoning Ordinance**

- Multifamily housing is permitted as-of-right in two of the eight zoning districts: the Apartment 3 (AP-3) district and the Business/Residential (B/R) district.<sup>2</sup> Ex. F, Village of Tuckahoe Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF TUCKAHOE CODE §§ 4-4.1, 4-5.1. The AP-3 district allows two forms of multifamily housing: apartment buildings with at least seven units and townhouses with no more than seven units. VILLAGE OF TUCKAHOE CODE § 4-4.1.
- The B/R district allows residential apartments above the first floor. VILLAGE OF TUCKAHOE CODE § 4-5.1. Mixed-use development (i.e., residences above stores) is permitted as-of-right in five zoning districts. Ex. F, Village of Tuckahoe Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF TUCKAHOE CODE §§ 4-1.1.4, 4-2.1.1, 4-3.1.3, 4-4.1.5.1, 4-5.1.2.
- Two-family dwellings are permitted as-of-right in two zoning districts. Ex. F, Village of Tuckahoe Table, *Review and Analysis of Municipal Zoning Ordinances*

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<sup>2</sup> The data provided by the County only credits the AP-3 district as permitting multifamily housing as-of-right. Ex. F, Village of Tuckahoe Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). However, under the Village code and consistent with the Village's response letter, the B/R district should also be included. VILLAGE OF TUCKAHOE CODE § 4-5.1; Ex. H, Village of Tuckahoe Response Letter from John D. Cavallaro, Village of Tuckahoe Attorney, at 3, dated May 16, 2013.

*in Westchester County* (submitted Feb. 29, 2012); VILLAGE OF TUCKAHOE CODE §§ 4-3.1.2, 4-4.1.1.

- Accessory apartments are not permitted in any zoning district. Ex. F, Village of Tuckahoe Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Zoning, VILLAGE OF TUCKAHOE CODE App'x A.

### **Restrictive Practices**

- Apartment buildings in the AP-3 district must contain at least seven dwelling units, and all developments in the AP-3 district must be on lots of at least 12,000 square feet. VILLAGE OF TUCKAHOE CODE §§ 4-4.1.2, 4-4.3. This prevents the development of smaller structures, such as quadraplexes, on smaller lots.
- Accessory apartments are prohibited throughout the Village. Ex. F, Village of Tuckahoe Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); Zoning, VILLAGE OF TUCKAHOE CODE App'x A.

### **Incentives and Mandates**

- There is no mandate for affordable or workforce housing development. VILLAGE OF TUCKAHOE CODE § 11-2.
- Workforce housing may be built only in the two zoning districts that allow multifamily housing. VILLAGE OF TUCKAHOE CODE § 11-2.1. The workforce housing ordinance declares that the number of workforce units “that may be permitted by the Planning Board” shall be between 5 and 15 percent of the total number of units. The Village Board of Trustees may increase the number of workforce units to 20 percent of the units where such flexibility is needed to meet state or federal program requirements and where the Trustees determine that such modification advances the public welfare without significant adverse impacts.” VILLAGE OF TUCKAHOE CODE § 11-2.2.
- For every workforce housing unit that a developer agrees to construct, the developer shall be allowed to build one additional market-rate unit, above the maximum number otherwise permitted. VILLAGE OF TUCKAHOE CODE § 11-2.3.
- The workforce housing ordinance provides requirements for physical integration, minimum floor area and resale and rental controls to ensure continued affordability that are consistent with those in the model ordinance. *Compare* VILLAGE OF TUCKAHOE CODE § 11-3, *with* Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions.
- A household is eligible to rent or buy a workforce unit if its annual income is no greater than 80 percent of the County’s Area Median Income (AMI). VILLAGE OF TUCKAHOE CODE § 11-4.1. This is consistent with the model ordinance’s definition of affordability for ownership units but not for rental units. Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions.
- Preference for workforce units is given, in descending order, to (1) Village employees, (2) members of the Village Police or Fire Department, (3) school district employees, (4) elderly or disabled Village residents, (5) Village residents who are veterans, (6) other Village residents, (7) people who work in the Village, and (8) all others. VILLAGE OF TUCKAHOE CODE § 11-4.2. Such preferences are not permitted under the model ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions.

### **Zoning Map, Development Pattern and Development Potential**

- Nine areas, covering 11 percent of the Village's land area, are within the two zones that permit multifamily housing as-of-right. Ex. E, Village of Tuckahoe Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012). Some of the areas are fully built out, including all areas zoned Business/Residential. *Id.* at Village of Tuckahoe Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012).
- The areas contain 22 lots that are available for development. *Id.* at Village of Tuckahoe Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). The individual lots are small, averaging only three-tenths of an acre, and some are too small to accommodate development by themselves. *Id.*; *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). Some of the lots are contiguous, however, and may be combined to form developable sites. *Id.* at Village of Tuckahoe Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).
- As is noted above, the minimum lot size in the AP-3 district, in which all of the development sites are located, is 12,000 square feet. VILLAGE OF TUCKAHOE CODE § 4-4.3. Only two of the available development sites are large enough to accommodate multifamily housing. Ex. E, Village of Tuckahoe Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012). The County has estimated that the sites can accommodate a total of 17 housing units. *Id.* at Village of Tuckahoe Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).
- Without approval of the Village Board of Trustees, no more than 15 percent of the total number of units in a development may be workforce housing units. VILLAGE OF TUCKAHOE CODE § 11-2.2. Of the 17 units that can be built, no more than three would be affordable housing. *Id.*; Village of Tuckahoe Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).
- As of both the 2000 and the 2010 census, one-third of the residents in the AP-3 district were Black or Hispanic. Ex. K, Racial Composition Table, Village of Tuckahoe – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The only other district to allow multifamily housing as-of-right, the B/R district, has an even higher minority concentration; the majority of residents were Black or Hispanic in both 2000 and 2010. *Id.*
- Currently 17.4 percent of the Village's land area in residential use is occupied by multifamily housing (defined for this purpose as apartments, townhouses or quadraplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. An additional 19.5 percent is occupied by two- and three-family dwellings. *Id.*
- The estimated average sales price of a condo unit is \$380,000, which is just barely above the estimated development cost of \$375,000 per condo unit. Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012). Subsidies, such as those available from the County under the Settlement, may be needed to make new affordable development more financially viable.

### **Master Plan**

- The most recent comprehensive plan, prepared by BFJ Planning and adopted in May 2008, recommended generally that the Village encourage affordable home

ownership but provided no specific recommendations for doing so. Recommendation Draft December 2007, *Tuckahoe Comprehensive Plan*, Village of Tuckahoe, NY, at 44, adopted May 2008.

- The plan recommended allowing residential use of the upper floors in retail areas. *Id.* at 45.
- The plan recommended rezoning the Columbus Avenue and Midland Avenue industrial areas as Business/Residential districts. *Id.* at 46.

### **Race, Ethnicity and Socioeconomic Characteristics**

- Tuckahoe's Black population increased from 10.1 percent of the Village's total population in 2000 to 11 percent in 2010, and the Hispanic population increased from 8.9 percent to 12.1 percent of the Village's population. Ex. K, Racial Composition Table, Village of Tuckahoe – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 19 percent of the Village's total population to 23 percent. *Id.*
- Despite this increase, the Village of Tuckahoe's status under section 7(c) of the Settlement remains the same.<sup>3</sup>
- In districts that allow multifamily housing as-of-right, the combined Black and Hispanic population increased from 34 percent in 2000 to 35 percent in 2010. *Id.*
- The Village's family median income rose from \$78,188 in 1999, as reported in the 2000 census, to \$95,865 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income declined from \$109,587 to \$103,969. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Village's families earning no more than 80 percent of Westchester County's Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – declined from about 41.2 percent as of the 2000 census to about 40.5 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

### **Implications**

- The Village of Tuckahoe's zoning ordinance provides some opportunities for affordable housing development, although seemingly not in numbers that would meaningfully allow the Village to meet the most recent and best available estimate of its share of regional affordable housing need.
- Within districts that allow multifamily housing as-of-right, development sites have been identified that have a cumulative capacity to accommodate 17 new multifamily units as-of-right, without density bonuses.

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<sup>3</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

- Low housing prices in the Village indicate a low profit margin for residential developers. Some financial incentives would likely be required to encourage affordable housing development.
- Additional actions will probably be needed for the Village to satisfy the most recent and best available estimate of its share of regional affordable housing need. These might include, in some combination, adopting a mandate for affordable housing, removing the cap on the percentage of units in a development that may qualify as workforce housing, allowing workforce or affordable housing developments in lower density residential districts, expanding the areas where residential apartments are permitted as-of-right (as recommended in the 2008 comprehensive plan), reducing minimum lot sizes and relaxing other zoning requirements for affordable multifamily housing, allowing accessory apartments, and providing opportunities for additional types of development (such as quadraplexes or cottage-style housing).
- Even with additional Village actions, affordable housing development will remain difficult without assistance in the form of financial subsidies and marketing (such as the maintenance of a Countywide registry of affordable units).

## TUCKAHOE DATA SHEET

a. Total acreage of the Village (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	383 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	42.0 acres	11.0%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	1.8 acres	0.5%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes (Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))	0.9 acres	0.3%
e. Order-of-magnitude area available for development <sup>4</sup> (Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))	0.7 acres	0.2%
f. Number of sites available for development (See Ex. E, Village of Tuckahoe Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	22 sites	
g. Average size of sites (See Ex. E, Village of Tuckahoe Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	0.03 acres	
h. Theoretical number of multifamily units that can be developed as-of-right (See Ex. E, Village of Tuckahoe Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	17 units	
i. Average selling price for multifamily (condo) units <sup>5</sup> (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$380,000	
j. Order-of-magnitude value for land, per condo unit <sup>6</sup> (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$95,000	
k. Order-of-magnitude total cost of development, per condo unit <sup>7</sup> (Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))	\$375,000	

<sup>4</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>5</sup> Data provided by the County was rounded to the nearest thousand.

<sup>6</sup> Data provided by the County was rounded to the nearest thousand.

<sup>7</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in Tuckahoe are at the lower end of the second quartile of the 31 eligible municipalities, total development costs in Tuckahoe may be slightly higher than the \$375,000 average.



I. Percent minority population

2000 Census	(10.1% Black, 8.9% Hispanic)	19%
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2010 Census	(11.0% Black, 12.1% Hispanic)	23%
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(Ex. K, Racial Composition Table, Village of Tuckahoe – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

m. Percent minority population in the zoning districts permitting multifamily housing as-of-right

2000 Census	(20.2% Black, 13.8% Hispanic)	34% <sup>8</sup>
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AP-3	19.6% Black, 13.3% Hispanic	33%
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B/R	28.1% Black, 30.2% Hispanic	59%
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2010 Census	(20.4% Black, 14.9% Hispanic)	35% <sup>9</sup>
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AP-3	19.6% Black, 14.2% Hispanic	34%
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B/R	31.1% Black, 24.2% Hispanic	55%
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(Ex. K, Racial Composition Table, Village of Tuckahoe – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

n. Municipal status under the Settlement based on percent minority population<sup>10</sup>

2000 Census	Section 7(c)
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2010 Census	Section 7(c)
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Ex. K, (Racial Composition Table, Village of Tuckahoe – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)

2000	\$66,500
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2010	\$83,800
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(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)

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<sup>8</sup> Weighted average of the AP-3 and B/R districts.

<sup>9</sup> Weighted average of the AP-3 and B/R districts.

<sup>10</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point I of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point I of this data sheet are likely higher than they would be for the purposes of determining eligibility.

p. Number of families at or below 80% area median income (AMI)<sup>11</sup>

2000	674	41.2%
2007-2011	630	40.5%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income

2000	\$78,188
2007-2011	\$95,865

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark

2015 Allocation	56 units
Number of units created since 2000	6 units

(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

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<sup>11</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.

## TOWN OF YORKTOWN

The Town of Yorktown appears to provide meaningful opportunities for the development of affordable housing sufficient to meet the most recent and best available estimate of its share of regional affordable housing need.<sup>1</sup> The Town has some restrictions on housing typologies, but enough land is zoned for as-of-right multifamily housing to provide the opportunities needed for affordable housing development. There are vacant sites in districts allowing multifamily housing as-of-right that could cumulatively accommodate close to 500 new housing units. It is important to note, however that all but 40 of those units would be built in a district where multifamily housing is only permitted as-of-right for age-restricted housing. Ex. E, Town of Yorktown Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-D(2) Table August 2012 (submitted Sep. 6, 2012); TOWN OF YORKTOWN CODE § 300-124.E. Furthermore, accessory units are not permitted as-of-right anywhere in the Town, and mixed-use development is permitted only in one district.

Yorktown has, however, made progress in reforming its zoning code. The Town has adopted most of the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; TOWN OF YORKTOWN CODE Ch. 102 (2012); TOWN OF YORKTOWN CODE § 300-39; Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013). There is still room for improvement in the zoning ordinance: by adopting development incentives, such as density bonuses, affordable housing development would become more feasible. See TOWN OF YORKTOWN CODE § 102-5.A, 102-5.B.

The Town has also made considerable progress towards fulfilling the most recent and best available estimate of its share of regional affordable housing need; 169 affordable housing units have been built or approved since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). That is the largest number of affordable housing units that have been built or approved in any of the municipalities covered by the Settlement. *Id.* It is also nearly half of the 378 affordable units that the 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC"), estimated as Yorktown's fair share of regional need. *Id.* The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its most recent Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The allocation plan provides an order-of-magnitude indication of the Town's success in providing for the most recent and best available estimate of its share of regional affordable housing need.

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<sup>1</sup> *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at \*4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

## Model Zoning and County Benchmark

- The Town has adopted most of the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; TOWN OF YORKTOWN CODE § 300-39; Ex. G, *Westchester County 2013 1Q Report*, at 15 (submitted May 10, 2013).
- The unofficial Affordable Housing Allocation Plan produced in 2005 by the HOC estimated for 378 affordable housing units in Yorktown, and close to half that number (169 units) have been built or approved in the Town since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). That is the largest number of affordable housing units that have been built or approved in any of the municipalities covered by the Settlement. *Id.*

## Zoning Ordinance

- Multifamily housing is permitted as-of-right in three of the 12 residential districts (out of a total of 31 zoning districts): the Multifamily Residential (R-3) district, the Residential Medium-Density (R-3A) district and the Age-Oriented Community (RSP-1) district.<sup>2</sup> See Ex. F, Town of Yorktown Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF YORKTOWN CODE §§ 300-21.C(3), 300-24.A, 300-124.C. Multifamily housing is allowed by special permit in nine additional zoning districts, but is generally restricted to either senior housing or conversion of existing homes constructed before 1930. See Ex. F, Town of Yorktown Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF YORKTOWN CODE §§ 300-21.C(1)(b)(9), 300-21.C(2)(b)(1), 300-21.C(5)(b), 300-21.C(6)(b).
- Mixed-use development (i.e., residences above stores) is permitted in one zoning district. Ex. F, Town of Yorktown Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF YORKTOWN CODE § 300-12.C(19)(a)(3).
- Two-family dwellings are permitted as-of-right in three zoning districts. Ex. F, Town of Yorktown Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF YORKTOWN CODE §§ 300-21.C(2)(a)(2), 300-21.C(3)(a)(1), 300-24.A. They are allowed by special permit in eight additional zoning districts but are restricted to conversion of existing properties. Ex. F, Town of Yorktown Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF YORKTOWN CODE §§ 300-21.C(1)(b)(9), 300-21.C(5)(b), 300-21.C(6)(b).

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<sup>2</sup> The table provided by the County identifies R-3, R-3A and RSP-3 as districts permitting multifamily housing as-of-right. Ex. F, Town of Yorktown Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012). Yet, the County's Methodology II-C and II-D tables and maps provide information about sites and acreage in RSP-1 rather than RSP-3, indicating that the descriptions of the two districts may have been inadvertently reversed in the review and analysis table. Compare Ex. F, Town of Yorktown Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012), with Ex. E, Town of Yorktown Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012). Based on the zoning code, it does indeed appear that RSP-1, rather than RSP-3, permits multifamily as-of-right. TOWN OF YORKTOWN CODE §§ 300-124.C, 300-160.

- Accessory apartments are not permitted as-of-right.<sup>3</sup> Ex. F, Town of Yorktown Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF YORKTOWN CODE § 300-21. They are allowed by special permit in all residential districts. Ex. F, Town of Yorktown Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF YORKTOWN CODE §§ 300-21.C(1)(d), 300-21.C(2)(c)(1), 300-21.C(3)(c)(1), 300-21.C(4)(c), 300-21.C(5)(c), 300-21.C(6)(c)(1).

### **Restrictive Practices**

- One of the three districts allowing multifamily housing, the RSP-1 district, restricts development to housing for older adults. TOWN OF YORKTOWN CODE § 300-124.E.
- In the RSP-1 district, the minimum lot size is 15 acres. TOWN OF YORKTOWN CODE § 300-126.C.
- Accessory housing units are not permitted as-of-right anywhere in the Town. Ex. F, Town of Yorktown Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012); TOWN OF YORKTOWN CODE § 300-21.

### **Incentives and Mandates**

- At least 10 percent of the units in any new residential subdivision of land in any single-family zoning district shall be established as fair and affordable housing units (AHUs). TOWN OF YORKTOWN CODE § 102-5.A.
- At least 10 percent of the units of any new multifamily residential development of 30 units or less in any multifamily residential zoning district shall be established as AHUs, and at least 15 percent of the units of any new multifamily residential development of 31 units or more in any multifamily residential zoning district shall be established as AHUs. TOWN OF YORKTOWN CODE § 102-5.B.
- Affordable housing developments are entitled to an expedited review process, in accordance with the model affordable housing zoning ordinance. TOWN OF YORKTOWN CODE § 102-8.
- No density or other zoning incentives are provided for affordable housing developments. TOWN OF YORKTOWN CODE Ch. 102, 300.

### **Zoning Map, Development Pattern and Development Potential**

- Eight areas, including 2 percent of the Town's land area, are within zoning districts that permit multifamily housing as-of-right. Ex. E, Town of Yorktown Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); *id.* at Methodology II-B Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).

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<sup>3</sup> Although the data submitted by the County credits 9 zoning districts as permitting accessory apartments as-of-right, the County also provides an explanatory note stating that these accessory dwelling units are limited to one dwelling unit for the owner, operator or janitor of the establishment, and the zoning ordinance does indeed contain this restriction. Compare Ex. F, Town of Yorktown Table, *Review and Analysis of Municipal Zoning Ordinances in Westchester County* (submitted Feb. 29, 2012), with TOWN OF YORKTOWN CODE §§ 300-21.C(7)(b)(1), 300-21.C(8)(c)(4), 300-21.C(9)(c)(6), 300-21.C(10)(c)(1), 300-21.C(11)(c)(6), 300-21.C(12)(c)(1), 300-21.A(13)(c)(1), 300-21(15)(c)(5).

- Eleven available development sites have been identified in these areas, which could accommodate a total of 479 new housing units. *Id.* at Town of Yorktown Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012).
- More than 90 percent of the potential new housing units would be on sites within the RSP-1 district, where development is restricted to housing for older adults. *Id.* at Methodology III-D(2) Table August 2012 (submitted Sep. 6, 2012); TOWN OF YORKTOWN CODE § 300-124.E.
- Approximately 6.6 percent of the Town's land area currently in residential use is occupied by multifamily housing (defined for this purpose as apartments, townhouses and quadraplexes). Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010. An additional 0.6 percent is occupied by two- and three-family housing. *Id.*
- The Town is located within the watershed of the New York City water supply system, and is thus subject to the *Rules and Regulations for the Protection of the New York City Water Supply and Its Sources* (more commonly known as the *Watershed Rules and Regulations*). See *Priority Areas for New York City Land Acquisition & Stewardship Program* (1997), available at <http://www.ecolibary.org/page/DP4507>. This consideration places considerable constraints on the density and location of housing development in the Town.
- The estimated average price of a condo unit in Yorktown (\$215,000) is well below the estimated cost of development of a condo unit (\$375,000), which may appear to reduce the likelihood of new multifamily housing development, particularly on small sites where economies of scale are not possible, and may also reduce the likelihood that affordable multifamily units would be built without subsidies. Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012); *id.* at Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012).

### **Master Plan**

- The most recent comprehensive plan was adopted in 2010. *Town of Yorktown Comprehensive Plan*, adopted June 15, 2010. The plan recommends requiring all new residential development to include some percentage of homes at levels affordable to low- and moderate-income families. *Id.* at 5-1, 5-2, 5-6. The plan suggests partnering with non-profits and seeking grant funding to provide ownership units at below-market prices. *Id.* at 5-6, 5-7. The plan also recommends expanding mixed-use development. *Id.* at 5-7.

### **Race, Ethnicity and Socioeconomic Characteristics**

- Yorktown's Black population increased from 3 percent of the Town's total population in 2000 to 3.3 percent in 2010, and the Hispanic population increased from 5.8 percent to 9.4 percent of the Town's total population. Ex. K, Racial Composition Table, Town of Yorktown – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 9 percent of the Town's total population to 13 percent. *Id.*
- Despite this increase, the Town of Yorktown's status under section 7(b) of the Settlement remains the same.<sup>4</sup>

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<sup>4</sup> The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population

- In districts that allow multifamily housing as-of-right, the combined Black and Hispanic population increased from 6 percent in 2000 to 13 percent in 2010. *Id.*
- The Town's median family income rose from \$94,984 in 1999, as reported in the 2000 census, to \$119,331 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income declined from \$133,002 to \$129,419. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator ([http://bls.gov/data/inflation\\_calculator.htm](http://bls.gov/data/inflation_calculator.htm)).
- The estimated percentage of the Town's families earning no more than 80 percent of Westchester County's Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – declined from about 33.7 percent as of the 2000 census to about 30.3 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

### Implications

- The Town of Yorktown appears to provide meaningful opportunities for the development of affordable housing sufficient to meet the most recent and best available estimate of its share of regional affordable housing need.
- Since 2000, 169 new affordable housing units have been built or approved in Yorktown.
- Within districts that allow multifamily housing as-of-right, development sites have been identified that have a cumulative capacity to accommodate 479 new multifamily units.
- Restrictions on as-of-right development of accessory housing and mixed-use projects limit the ability to provide affordable housing through these means.
- Most of that new housing capacity is associated with sites in a zoning district that restricts development to housing for older adults, which would preclude affordable housing for families or young people.
- The estimated low value in the Town for affordable housing suggests some financial incentives may be needed to encourage affordable housing development.
- Additional actions will be needed for the Town's zoning code to provide viable opportunities for affordable housing. Considerable creativity will need to be employed with any strategy involving new housing development in Yorktown, due to the constraints imposed by its location within the watershed of the New York City water supply system, compounded by soil and drainage conditions in some locations. Some solutions may emerge should the City and State of New York make or agree to infrastructure improvements to address septic and package plant failures in one or another area. In the absence of such action, solutions might involve the development of affordable housing in locations where sewage is not an issue, such as housing above stores in hamlet centers, or low-density development models, such as allowing two-family housing with one affordable

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would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

unit instead of a similarly sized single-family home. Even if environmental conditions seem to forestall higher density affordable housing development for the time being, so that density bonuses are not currently feasible, a form of the model zoning ordinance could still be adopted, providing other incentives, such as waiver of fees and expedited review.



## YORKTOWN DATA SHEET

a. Total acreage of the Town (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	25,186 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	386.5 acres	1.5%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	68.8 acres	0.3%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes	50.0 acres	0.2%
R-3 (Multifamily Residential)	4.18 acres	
RSP-1 (Age-Oriented Community)	45.79 acres	
(Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012))		
e. Order-of-magnitude area available for development <sup>5</sup>	40.0 acres	0.2%
R-3 (Multifamily Residential)	3.34 acres	
RSP-1 (Age-Oriented Community)	36.63 acres	
(Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012))		
f. Number of sites available for development (See Ex. E, Town of Yorktown Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012))	11 sites	
g. Average size of sites (See Ex. E, Town of Yorktown Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))	3.6 acres	
h. Theoretical number of multifamily units that can be developed as-of-right	479 units	
R-3 (Multifamily Residential)	40 units	
RSP-1 (Age-Oriented Community)	439 units	
(See Ex. E, Town of Yorktown Methodology II-C and II-D Map August 2012 (submitted Sep. 6, 2012); Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012))		
i. Average selling price for multifamily (condo) units <sup>6</sup> (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$215,000	
j. Order-of-magnitude value for land, per condo unit <sup>7</sup> (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$32,000	

<sup>5</sup> After applying a factor of 80 percent to account for irregular site configuration, setbacks, building form restrictions, and the like.

<sup>6</sup> Data provided by the County was rounded to the nearest thousand.

<sup>7</sup> Data provided by the County was rounded to the nearest thousand.

k. Order-of-magnitude total cost of development, \$375,000  
per condo unit<sup>8</sup>

(Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))

l. Percent minority population

2000 Census (3.0% Black, 5.8% Hispanic) 9%

2010 Census (3.3% Black, 9.4% Hispanic) 13%

(Ex. K, Racial Composition Table, Town of Yorktown – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

m. Percent minority population in the zoning districts  
permitting multifamily housing as-of-right

2000 Census (1.8% Black, 4.5% Hispanic) 6%<sup>9</sup>

R-3 2.6% Black, 6.6% Hispanic 9%

R-3A<sup>10</sup> N/A

RSP-1 0.5% Black, 1.8% Hispanic 2%

2010 Census (3.7% Black, 9.7% Hispanic) 13%<sup>11</sup>

R-3 5.2% Black, 13.0% Hispanic 18%

R-3A<sup>12</sup> N/A

RSP-1 1.1% Black, 3.8% Hispanic 5%

(Ex. K, Racial Composition Table, Town of Yorktown – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

n. Municipal status under the Settlement based on percent minority population<sup>13</sup>

2000 Census Section 7(b)

2020 Census Section 7(b)

(Ex. K, Racial Composition Table, Town of Yorktown – 2000 & 2010 Census Data  
(submitted Aug. 15, 2012))

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<sup>8</sup> Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not take local land costs into consideration. Since land costs in Yorktown are in the lowest quartile of the 31 eligible municipalities, total development costs in Yorktown are likely to be lower than the \$375,000 average.

<sup>9</sup> Weighted average of the R-3 and RSP-1 districts.

<sup>10</sup> Data was not provided for this district.

<sup>11</sup> Weighted average of the R-3 and RSP-1 districts.

<sup>12</sup> Data was not provided for this district.

<sup>13</sup> The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point l of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point l of this data sheet are likely higher than they would be for the purposes of determining eligibility.

o. Westchester County 80% area median income (AMI)		
2000		\$66,500
2010		\$83,800
(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)		
p. Number of families at or below 80% area median income (AMI) <sup>14</sup>		
2000	2,843	33.7%
2007-2011	3,030	30.3%
(Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates)		
q. Median family income		
2000		\$94,984
2007-2011		\$119,331
(Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates)		
r. Number of units needed to meet the 2000-2015		
Allocation Plan benchmark		209 units
2015 Allocation		378 units
Number of units created since 2000		169 units
(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))		

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<sup>14</sup> Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.